



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

WP.(MD) No.3467 of 2018

Ramani

... Petitioner

-vs-

1.The District Collector,
Trichy District, Trichy.

2.The Tahsildar,
Thiruverumbur Taluk,
OFT Post, Trichy District.

3.The Block Development Officer,
Thiruverumbur Taluk,
OFT Post, Trichy District.

4.Settu Mani @ Kumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 3 to consider the petitioner's representation dated 29.01.2018 and initiate an appropriate action against the 4th respondent namely Settu Mani @ Kumar to remove the encroachment made by him by constructing a wall to an extent of 5 feet by encroaching the 18th street bearing Ward No.4, North South Road No.18, Near Mosque in between Natham Survey Nos.406/34 and 406/33 at Navalapattu Burma Colony, OFT Post, Thiruverumbur, Trichy District and pass an appropriate order on merits in accordance with law, within the time stipulated by this Court.

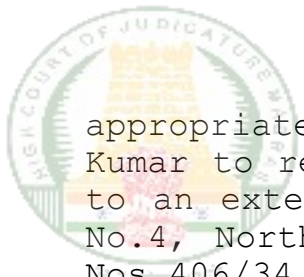
For Petitioner
For Respondents

: Mr.V.R.Venkatesan
: Mr.V.R.Shanmuganathan,
Spl.G.P for RR1 and 2
Mr.Murugan, standing counsel
for R3

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

The petitioner has filed this writ petition seeking a writ of mandamus, to direct the respondents 1 to 3 to consider the petitioner's representation dated 29.01.2018 and initiate an



appropriate action against the 4th respondent namely Settu Mani @ Kumar to remove the encroachment made by him by constructing a wall to an extent of 5 feet by encroaching the 18th street bearing Ward No.4, North South Road No.18, Near Mosque in between Natham Survey Nos.406/34 and 406/33 at Navalapattu Burma Colony, OFT Post, Thiruverumbur, Trichy District and pass an appropriate order on merits in accordance with law, within the time stipulated by this Court.

2.By consent of both parties, the writ petition itself is taken up for disposal.

3.The grievance of the petitioner is that the private respondents have encroached into a public property. However, we find that for the identical relief, the petitioner is before the Civil Court in O.S.No.812 of 2015 on the file of the III Additional District Munsif Court, Trichy. In the said suit, advocate commissioner was appointed and he has filed his report.

4.The learned counsel for the petitioner would submit that the learned advocate commissioner has reported that there is an encroachment.

5.We find that in the suit, the Tahsildar, District Collector, Assistant Engineer and Superintending Engineers of TANGEDCO are all defendants. If there is encroachment into a public property, obviously the officials will take action. However, when the suit is pending, we cannot issue any positive direction in the writ petition.

6.Therefore, while dismissing the writ petition, we give liberty to the petitioner to pursue his remedy before the Civil Court or in the alternate withdraw the proceedings and pursue the remedy before the official respondents.

7.This writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector, Trichy District, Trichy.

2.The Tahsildar, Thiruverumbur Taluk,
OFT Post, Trichy District.

3.The Block Development Officer,
Thiruverumbur Taluk, OFT Post, Trichy District.

+One cc to Mr.V.R.Venkatesan, Advocate, SR.No.50974

+One cc to The Special Government Pleader, SR.No.50782

Arul

RL/6C/2P/CVC/SAR4/8/3/2018

W.P.(MD) No.3467 of 2018