



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.5197 of 2018

Mathiyalagan

... Petitioner

Vs.

1.The Commissioner,
Kadayanallur Municipality,
Tirunelveli District.

2.Ponnusamy

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to take action for removing the encroachment made in Pillaiyar Kovil North Street, Mavadical, within Kadayanallur Municipality, by the 2nd respondent within a time frame by considering the representation received by the first respondent on 07.11.2017.

For Petitioner : Mr.D.Venkatesh

For R-1 : Mr.T.S.Mohammed Mohideen

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the main Writ Petition itself is taken up for final disposal.

2. This Writ Petition is styled as a 'Public Interest Litigation'. The petitioner, who is a resident of Pillaiyarkovil North Street, Mavadical, Kadayanallur, Tirunelveli District, came forward to file this Writ Petition stating among other things that he is an agriculturist and the second respondent has put up a new superstructure consisting of ground + two floors and in order to have access, he has put up a staircase on the public street, namely, Pillaiyarkovil North Street and in this regard, he has submitted a representation dated 07.11.2017 to the first respondent and in spite of receipt and acknowledgment, no response is forthcoming and hence, he came forward to file this Writ Petition.



3. Mr.T.S.Mohammed Mohideen, learned Standing Counsel accepts notice on behalf of the first respondent and would submit that though this Writ Petition is styled as a 'Public Interest Litigation', it is not so, for the reason that the petitioner is also a resident of the very same street and seeks time to get instructions.

4. This Court has heard the submissions made on either side and perused the materials placed before it.

5. This Court, in the light of the facts and circumstances of the case and without going into the merits of the case projected by the petitioner either in his representation dated 07.11.2017 or in this Writ Petition, directs the first respondent to put the petitioner as well as the second respondent on notice and cause inspection of the premises bearing Door No.29/1, Pillaiyarkovil North Street, Mavadical, Kadayanallur, Tirunelveli District, to find out as to whether the staircase put up by the second respondent to approach the superstructure, encroaches upon the public road and the said exercise is to be carried out, within a period of three weeks from the date of receipt of a copy of this order and depending upon the result of the same, the first respondent shall take appropriate action, on merits and in accordance with law, within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as to the second respondent.

6. This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To
The Commissioner,
Kadayanallur Municipality,
Tirunelveli District.

+1CC to Mr.D.Venkatesh, Advocate, SR.No. 54672

ORDER MADE IN
W.P(MD)No.5197 of 2018
12.03.2018

pm
AM/KKR/SAR 1/26.03.2018/2P/3C