



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.13053 of 2018

and

W.M.P(MD)Nos.11916 to 11918 of 2018

V.Pandiarajan

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Director (Panchayat),
Madurai District,
Madurai.

3.The Tahsildar,
Madurai East Taluk Office,
Y.Narasingam,
Madurai District.

4.The Block Development Officer,
Madurai East Panchayat Union,
Madurai.

5.The Inspector of Police,
Y.Othakadai Police Station,
Y.Othakadai,
Madurai District.

6.Sukila

... Respondents 1 to 6

7.A.Srinivasagan

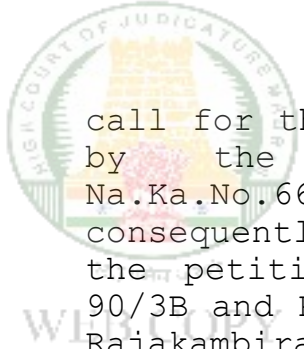
... 7th Respondent

[R.7 is impleaded as party respondent vide order of this Court dated 21.08.2018 passed in W.M.P(MD) No.14521 of 2018 in W.P(MD)No.13053 of 2018]

8.N.Sidharth

... 8th Respondent

[R.8 is impleaded as party respondent vide order of this Court dated 21.08.2018 passed in W.M.P(MD) No.14015 of 2018 in W.P(MD)No.13053 of 2018]



call for the entire records pertaining to the impugned order passed by the fourth respondent in his proceedings in Na.Ka.No.667/2018/thi.3, dated 08.06.2018 and quash the same and consequently, direct the respondents 1 to 4 not to interfere with the petitioner's school premises situated at Survey Nos.81/1A1, 90/3B and Plot Nos.46, 47, 48, 49, 50, 55, 56, 57, 58, 59 and 60 at Rajakambiram Village, Madurai East Taluk, Madurai District.

For Petitioner :Mr.G.Gomathi Sankar

For Respondents
No 1 to 3 & 5 :Mr.C.Ramar, AGP

For Respondents
No 4 :Mr.Aayiram K.Selvakumar

For Respondents No.6 :Mr.P.M.Vishnuvarthanan

For Respondent No.7 :Mr.P.T.S.Narendravasan

For Respondent No.8 :Mr.V.Meenakshi Sundaram

ORDER

This writ petition is directed against the impugned proceedings bearing No.Na.Ka.No.667/2018/thi.3, dated 08.06.2018, issued by the fourth respondent directing the petitioner to remove the encroachment made on the public road and consequently, direct the respondents 1 to 4 not to interfere with the petitioner's school premises.

2. By consent, the writ petition is taken up for final disposal.

3. Firstly, the prayer in the writ petition is liable to be rejected on the ground that the impugned action has been taken pursuant to the directions given by this Court on 02.02.2018 passed in W.P(MD)No.12725 of 2016, when the sixth respondent, namely, K.Sugila came to this Court seeking a writ of Mandamus directing the respondents therein, namely, the District Collector, Madurai District and the Tahsildar, Madurai East Taluk, Madurai, to consider her representation dated 29.06.2016 and take appropriate action to remove the encroachment made in the pathway measuring 23 feet situated at Rajakambeeram Village, Madurai East Taluk, Madurai.

4. This Court, while disposing of the aforesaid writ petition, in paragraph 6, has observed as under:

"6. Though the petitioner prays for a larger relief, this Court, in the light of the aforesaid facts and circumstances of the case and without going into the



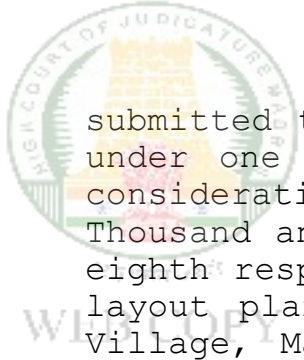
merits of the claim projected by the petitioner either in this Writ Petition or in her representation, permits the petitioner to submit a representation to the jurisdictional local body along with relevant materials, documents and photographs, within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the said authority is directed to consider the said representation, and shall put on notice Mr.Pandiyarajan, the Correspondent of the Modern Matriculation School, Hajis Garden, Rajakambeeram, Madurai East Taluk, Madurai District and thereafter, shall consider and dispose of the same, 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 the said Mr.Pandiyarajan."

5. Learned Counsel for the sixth respondent submitted that the fourth respondent has undertaken a physical inspection on the land in question in the presence of the sixth respondent. It is not known whether notice has been given to the other parties.

6. Learned Counsel for the seventh respondent submitted that the petitioner being the owner of the Plot No.47 situated in S.No.90/3B, Rajakambeeram Village, Madurai East Taluk, Madurai District, has sold away the Plot No.47 under registered sale deed dated 23.06.2004 vide Document No.2918/2004 for a valuable consideration to the seventh respondent. Since the seventh respondent has become the lawful owner of the Plot No.47 by virtue of the registered sale deed dated 23.06.2004 bearing Document No.2918/2004 executed by the petitioner in favour of the seventh respondent, he cannot claim that still the said Plot No.47 belongs to him and seek any relief against Plot No.47 and that would amount to asserting ownership of Plot No.47, when he had already sold the same to the seventh respondent. Therefore, the prayer of the petitioner in respect of the Plot No.47 is liable to be rejected.

7. The learned Counsel for the seventh respondent further submitted that the petitioner has approached this Court with unclean hands for the reason that when the seventh respondent filed the impleading application in W.M.P(MD)No.14521 of 2018 stating that he became the absolute owner of the Plot No.47 by virtue of the registered sale deed dated 23.06.2004 vide Document No.2918/2004, the counter affidavit filed by the petitioner to the said impleading application does not deal with the registered sale deed dated 23.06.2004 in respect of Plot No.47. Further, the counter affidavit filed by the petitioner also supported the contention made by the learned Counsel for the seventh respondent as nowhere the petitioner has disputed the title of the seventh respondent in respect of the Plot No.47 and in such circumstances, the writ petition is liable to fail in respect of Plot No.47.

8. Whereas the learned Counsel for the eighth respondent also



submitted that the petitioner has sold away Plot Nos.58, 59 and 60 under one registered sale deed dated 27.07.2006 for a total sale consideration of Rs.4,89,900/- (Rupees Four Lakhs Eighty Nine Thousand and Nine Hundred only) to the eighth respondent. Since the eighth respondent has purchased the aforementioned Plots as per the layout plan of Hajeess Garden in S.No.81/1A1, 90/3B, Rajakambeeram Village, Madurai District, he is entitled to use 23 feet road to reach the Thirumohur - Y.Othakadai main road. Whereas the sixth respondent being the owner of Plot No.65, which lies opposite to the Plots owned by the eighth respondent, she is also using the very same road for ingress and egress. However, the petitioner encroached upon the said 23 feet access road by blocking the ingress and egress of the eighth respondent.

9. In the counter affidavit filed by the petitioner to the impleading petition in W.M.P(MD)No.14015 of 2018, as usual, the petitioner has not mentioned about the purchase of Plot Nos.58, 59 and 60 by the eighth respondent by virtue of the registered sale deed dated 27.07.2006.

10. Since the petitioner has approached this Court with unclean hands, we are not inclined to entertain this writ petition and accordingly, this writ petition is dismissed with a cost of Rs.15,000/- (Rupees Fifteen Thousand only) each to be paid by the petitioner to the respondents 6 to 8 within a period of two weeks from the date of receipt of a copy of this order. Needless to mention that it is open to the authorities concerned to proceed against the encroachment made by the petitioner in accordance with law. Consequently, the connected writ miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar (CS-III)

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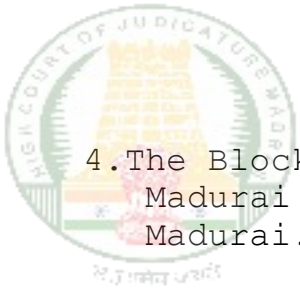
Sub Assistant Registrar (CS-II)

To

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Director (Panchayat),
Madurai District,
Madurai.

3.The Tahsildar,
Madurai East Taluk Office,
I.Narasimhan,
Madurai District.



4.The Block Development Officer,
Madurai East Panchayat Union,
Madurai.

5.The Inspector of Police,
Y.Othakadai Police Station,
Y.Othakadai,
Madurai District.

+1CC TO MR.D.NALLA THAMBI ADVOCATE IN SR.No.79605.

+1CC TO MR.G.GOMATHI SANKAR ADVOCATE IN SR.No.79873.

+1CC TO MR.PT.S.NARENDRAVASAN ADVOCATE IN SR.No.79517.

+1CC TO MR.P.M.VISHNUVARTHANAN ADVOCATE IN SR.No.79881.

RSB

DS RP SAR-2:04.09.2018: 5P/10C

W.P(MD)No.13053 of 2018
and
W.M.P(MD)Nos.11916 to 11918 of 2018
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