



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA
and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD) No.21919 of 2018

and

W.M.P.(MD) No.19846 of 2018

Surendravalli @ Suthanthiravalli

... Petitioner

Vs.

The Commissioner,
Madurai City Municipal Corporation,
Arigner Anna Maaligai,
Madurai.

... Respondent

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the proceedings issued by the respondent herein in Na.Ka.No.Nil dated 18.10.2018 which was served on 20.10.2018 and quash the same and consequently direct the respondent not to dispossess the petitioner from the property comprised in Door No.45C-1, Thangavel Thevar Compound, New Ramnad Road, Madurai.

For Petitioner : Mr.A.S.Rajeshwari

For Respondent : Mr.R.Murali

ORDER

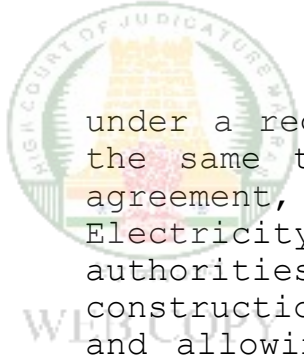
(Order of the Court was made by T.RAJA, J.)

This Writ Petition is directed against the impugned order dated 18.10.2018 issued by the Commissioner, Madurai Corporation, respondent herein, calling upon the petitioner to vacate the encroachment made by constructing a house bearing Door No.45C-1 on the bank of water channel in Ward No.71 in New Ramnad Road, Madurai.

2.Mr.R.Murali, learned Standing Counsel takes notice for the respondent.

3.By consent, this Writ Petition is taken up for final disposal.

4.The learned Counsel appearing for the petitioner assailing the impugned order pleaded that the petitioner is permanently residing in Door No.45C-1, Ward No.71 in New Ramnad Road, Madurai south, which is also in T.S.No.544 belonging to Anuppanadi Mela Ramanuja Koodam Dharma Paripalana Sabai. Earlier, one Mr.Kumarasamy Naidu, who was then Trustee of the said Sabai, has executed a rental agreement in favour of the petitioner's father, namely, Thangavel,



under a registered document bearing Document No.243/1951 rented out the same to the petitioner. By virtue of the registered rental agreement, regular taxes to the various authorities such as Electricity Department, Water Supply Department and other revenue authorities are being paid without any default. When the construction put up by the petitioner does not cause any obstruction and allowing the petitioner to stay in the said place for a long time, all of a sudden, the present impugned proceedings has been wrongly issued calling upon the petitioner to vacate the said house within a period of seven days terming the petitioner as an encroacher of the water channel. The house is situated in an area of 560 sq. ft. only which is in no way linking to any road or public pathway. Although it is adjacent to the water channel, there is no truth in the impugned proceedings calling upon the petitioner as encroacher and thereupon ordering the petitioner to vacate and leave the place. Therefore, the impugned order is liable to be interfered with, she pleaded.

5.Mr.R.Murali, learned Standing Counsel appearing for the respondent taking notice submitted that when removal of encroachment drive has been initiated in the banks of water channel in New Ramnad Road, similarly placed encroachers like the petitioner approached this Court and this Court in W.P.(MD)No.21830 of 2018 has declined to entertain the said writ petition. Since the steps taken in the impugned order is subsequent to the order passed by this Court in the above said Writ Petition, as we have already considered the similar plea and made it clear that the removal of encroachment drive is initiated only on the basis of the direction given by this Court in the aforementioned writ petition, we are unable to entertain this Writ Petition. Hence, the Writ Petition fails and accordingly, the same is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is also dismissed.

Sd/

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-I)

To

+lcc to Mr.R.Murali, Advocate, SR.No.93222

+lcc to Mr.A.S.Rajeshwari, Advocate, SR.No.92069

W.P.(MD) No.21919 of 2018
and

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26.10.2018

SRM

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