



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2018

CORAM:

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THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

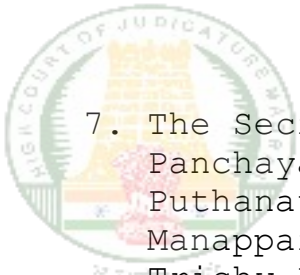
W.P (MD) No.18692 of 2018
and
W.M.P (MD) Nos.16538 and 16539 of 2018

M.Sabeena Begum

... Petitioner

Vs .

1. The District Collector,
Trichy District,
Trichy.
2. The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate,
Trichy.
3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Srirangam,
Trichy District.
4. The Assistant Director (Panchayat),
District Collector Office,
Trichy,
Trichy District.
5. The Commissioner,
(Village Panchayat),
Special Officer and Panchayat Union,
Manapparai,
Trichy District.
6. The Block Development Officer,
Office of the Block Development Officer,
Panchayat Union,
Manapparai,
Trichy District.



7. The Secretary,
Panchayat Union,
Puthanatham,
Manapparai Taluk,
Trichy District.

8. The Tahsildar,
Office of the Tahsildar,
Manapparai,
Trichy District.

9. A.Mumtaj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings in ந.க.ஆ1/2857/2018 (நில அளவை) dated 29.06.2018 and the consequential order issued by the sixth respondent in his proceedings in ந.க.ஆ3/771/2017, dated 16.08.2018 and quash the same as illegal.

For Petitioner : Mr.B.Anandan

For Respondents : Mr.C.Ramar

Additional Government Pleader for R.1 to R.8

Mr.A.Joel Paul Antony for R.9

ORDER

[Order of the Court was made by T.RAJA,J.]

This writ petition has been filed challenging the impugned proceedings passed by the first respondent bearing ந.க.ஆ1/2857/2018 (நில அளவை) dated 29.06.2018 and the consequential order issued by the sixth respondent in his proceedings in ந.க.ஆ3/771/2017, dated 16.08.2018 and to quash the same as illegal.

2. After hearing the parties at length, we have already passed an order on 29.08.2018, which is reproduced hereunder for the sake of convenience:

"The Writ Petition has been filed seeking a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.A1/2857/2018 (Land Survey) dated 29.06.2018 and the consequential order issued by the sixth respondent in his proceedings dated Na.Ka.No.A3/771/2017, dated 16.08.2018 and quash the same.

2. Heard the learned counsel for the parties.

3. We are unable to find any iota of merits in the Writ Petition. The reason is, though this Court has, not



only in one occasion but also in several occasions following the order dated 21.02.2017 passed by the Hon'ble Division Bench of this Court in W.P(MD)No.1254 of 2017, passed positive directions to remove the encroachment of septic tank put up by the petitioner in Survey No.582/9, this has not been complied with by the petitioner. Peculiarly, when final notice was issued to the petitioner on 16.08.2018 to remove the encroachment or to reply, again he has not even bothered to reply the same. When the petitioner has failed to give her explanation, that goes to show that she has no explanation to offer.

4. This Court has already passed positive directions for removal of encroachment in W.P(MD)No.1254 of 2017. As against that order, although she was a party, neither appeal nor review was filed and the order has become final. In that view of the matter, we are satisfied that the septic tank unauthorisedly put up by the petitioner encroaching the land covered in Survey No.582/9 shall be removed. Hence, finally time is given till 05.09.2018 to the petitioner to remove the encroachment and report before us the same, failing which, further order will be passed.

5. Post this matter on 06.09.2018."

3. Learned Counsel for the petitioner submitted that although there is a finding against the petitioner in the order dated 21.02.2017 passed in W.P(MD)No.1254 of 2017 [**Abdul Pari v. The District Collector, Trichy District, Trichy and 4 others**], which has not been challenged, the finding given in paragraphs 3 and 4 that a copy of 'A' Register showing that Survey No.582/9 was classified as a pathway and the same belongs to the Government, the fifth respondent therein/petitioner herein has made certain encroachments and the consequential direction to remove the same under due process of law, cannot be accepted, since the land in Survey No.582/9 has been wrongly classified in the 'A' Register.

4. Heard the learned Counsel for the parties.

5. We are unable to entertain the said submission made by the learned Counsel for the petitioner, because we are not sitting in appeal against the order dated 21.02.2017 passed in W.P(MD)No.1254 of 2017 [**Abdul Pari v. The District Collector, Trichy District, Trichy and 4 others**], as we have indicated in our order dated 29.08.2018 that the petitioner herein has neither filed any appeal or review against the said order. That apart, when a show cause notice was also issued to her to remove the encroachment or to reply, we have also given a finding that the petitioner had not even come forward to give a reply against the final notice dated 16.08.2018 given to the petitioner to remove the encroachments.



6. Therefore, finding no merit whatsoever in this writ petition, we are unable to interfere with the impugned orders and accordingly, the writ petition fails.

7. At this juncture, the learned Additional Government Pleader appearing for the respondents 1 to 8 sought for two weeks' time for removal of encroachments put up by the petitioner.

8. In the result, this writ petition is dismissed, however, directing the authorities concerned to do the needful to remove the encroachments put up by the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The District Collector,
Trichy District,
Trichy.
2. The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate,
Trichy.
3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Srirangam,
Trichy District.
4. The Assistant Director (Panchayat),
District Collector Office,
Trichy,
Trichy District.
5. The Commissioner,
(Village Panchayat),
Special Officer and Panchayat Union,
Trichy District.



6. The Block Development Officer,
Office of the Block Development Officer,
Panchayat Union,
Manapparai,
Trichy District.

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7. The Secretary,
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Puthanatham,
Manapparai Taluk,
Trichy District.

8. The Tahsildar,
Office of the Tahsildar,
Manapparai,
Trichy District.

+ 1 CC TO Mr.B.ANANDAN, ADVOCATE IN SR No. 84935
+ 1 CC TO Mr.A.JOEL PAUL ANTONY, ADVOCATE IN SR No. 84719
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 84740

RSB

TE/SKN/SAR-1 : 03/10/2018 : 5P/12C

W.P(MD)No.18692 of 2018 and
W.M.P(MD)Nos.16538 and 16539 of 2018
17.09.2018