



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.02.2018

CORAM

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

W.P. (MD) .No.11167 of 2016
and
W.M.P (MD) No.8585 of 2016

Shanta Suresh

... Petitioner

Vs.

1. The District Collector,
Dindigul,
Dindigul District.
2. The Commissioner,
Dindigul Muncipal Corporation,
13/9, Main Road, Dindigul.
3. The Local Planning Authority,
Door No.5, Thiruvalluvar Nagar,
7th Cross Street, Spencer Compound,
Dindigul - 624 003.
4. The Tahsildar,
Dindigul East,
Treasury Road, Mettupatti,
Dindigul - 624 002.
5. The Executive Engineer,
Public Works Department,
Buildings (Construction and Maintenance),
Dindigul Division, Dindigul.

6.R.Ramachandran

... Respondents

7.

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 herein to take necessary steps to remove the unauthorized construction put up by the sixth respondent on 50 feet road located on the southern side of Plot No.A/21, T.S.No.1951/1, 1952/1, 2, 3, 5 and 1798 in Dindigul Municipal Corporation, Ward No.6, Balakrishnapuram Approved layout,



Vivekananda Nagar and also ensure pathway to General Public.

For Petitioner	: Mr.AL.Kannan
For R1,R3,R4&R5	: Mr.D.Muruganantham Addl. Government Pleader
For R2	: Mr.J.Lawrance
For R6	: No appearance

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O R D E R

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

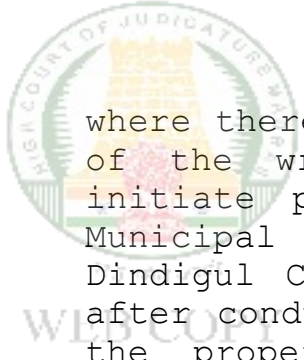
Heard Mr.A.L.Kannan, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 1, 3, 4 and 5 and Mr.J.Lawrance, learned counsel appearing for the second respondent.

2.Notice sent to the 6th respondent has returned with an endorsement 'not known'. Considering the factual position and taking into consideration the report submitted by the Commissioner, Dindigul City Municipal Corporation, we dispose of this writ petition by issuing necessary direction to the Municipal Corporation.

3.The petitioner's allegation is that the sixth respondent has encroached into the road and put up construction. Despite objection, the Corporation did not take any action and the construction proceeded. After this Court entertained the writ petition on 01.07.2016, directed the second respondent to file a status report and pursuant to which, the second respondent has come forward with a status report and it appears that the sixth respondent's application for grant of building plan approval was rejected. There is also an admission that there is an encroachment. However, without taking any steps to remove the encroachment and demolish the illegal structure, the respondent Corporation is attempting to regularize the same by collecting fine. We do not approve the manner in which, the respondent Corporation has proceeded in the matter, especially when they have stated in the status report that there is an encroachment and unauthorized construction has been put up.

4.The learned Additional Government Pleader appearing for the respondents 1 & 3 to 5 submits that the alleged encroachment is on a scheme road, which is to yet to be handed over to the corporation.

<https://hcservices.504.gov.in/hcservices/> these issues have to be considered by the authorities in a proper manner and necessary action should be initiated whenever there is encroachment into public property and



where there is an unauthorized construction. Therefore, we dispose of the writ petition by directing the second respondent to initiate proper action under the provision of Coimbatore City Municipal Corporation Act, which has been made applicable to the Dindigul Corporation by issuing notice to the 6th respondent and after conducting an inspection of the building and measurement of the property and proceed in accordance with law. The said direction shall be complied with by the second respondent, within a period of 8 weeks from the date of receipt of a copy of this order.

6. In the status report, the respondent Commissioner has stated that a criminal case was registered against the 6th respondent and he has paid a fine of Rs.1,100/- in STC No.561 of 2016. The payment of fine cannot be taken to regularize the unauthorized construction. Therefore, the respondent Corporation should proceed in accordance with law.

7. So far as the scheme road is concerned, it appears that further proceedings are required to be initiated, so that the road could be formed. However, once the area has been earmarked for a scheme road and necessary proceedings are issued finalising the scheme road, it is the duty of the respondents 1 and 2 to ensure that the earmarked portion is free from encumbrance, otherwise the purpose of earmarking for proposed scheme road itself would be defeated. Consequently connected M.P is also closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul,
Dindigul District.
2. The Local Planning Authority,
Door No.5, Thiruvalluvar Nagar,
7th Cross Street, Spencer Compound,
Dindigul - 624 003.
3. The Tahsildar,
Dindigul East,
Treasury Road, Mettupatti,
Dindigul - 624 002.



4. The Executive Engineer,
Public Works Department,
Buildings (Construction and Maintenance),
Dindigul Division, Dindigul.

+ 1 cc TO Mr.J.Lawarance , Advocate in SR No. 50390
+ 1 cc TO Mr.AL.Kannan , Advocate in SR No. 50431
+ 1 cc TO The Special Government Pleader in SR No. 50595

Ns

AE/KK/SAR1/12.04.2018/4P/8C

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