



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 19159 of 2018

M.Murugesan

... Petitioner

-vs-

- 1.The Commissioner,
Trichy Corporation,
Trichy.
- 2.The Assistant Commissioner,
Ponmalai Division,
Trichy Corporation,
Trichy.
- 3.D.Gandhimathi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the 1st and 2nd respondents herein to take immediate action and to remove the encroachment made by the 3rd respondent in the public pathway in T.S.No.10 situated at Block No.12, Ward A.F. Kottapattu Village, Trichy Corporation limits, within time stipulated by this Hon'ble Court.

For Petitioner : Mr.B.Jameel Arasu

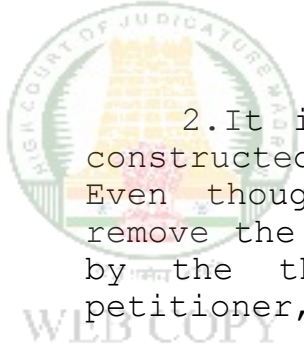
For Respondents 1 & 2 : Mr.N.S.Karthikeyan
Standing Counsel

For 3rd Respondent : Mr.V.R.Venkatesan

O R D E R

(Order of the Court was made by K.K.SASIDHARAN, J.)

The petitioner has filed this writ petition to direct the Commissioner, Trichy Corporation to take action against the third respondent and remove the encroachment with respect to the public pathway in T.S.No.10, Block No.12, Ward A.F. Kottapattu Village, Trichy Corporation.



2.It is the case of the petitioner that the third respondent constructed a pathway and a shed encroaching upon the public road. Even though the Corporation of Trichy initiated proceedings to remove the encroachment, there was no follow up action taken either by the third respondent or by the statutory authority. The petitioner, therefore, filed this writ petition.

3.The third respondent filed a counter affidavit contending that he has already filed a civil suit before the District Munsif, Tiruchirapalli in O.S.No.868 of 2018, challenging the proceedings initiated by the Corporation.

4.The first respondent submitted a status report after inspecting the property in question. The report clearly indicates that the third respondent has encroached upon 587 square feet of road portion in T.S.No.10.The notice issued by the Corporation has been challenged before the District Munsif Court, Tiruchirapalli in O.S.No.868 of 2018.

5.The report submitted by the Commissioner, City Municipal Corporation shows the act of encroachment on the part of the third respondent. The Corporation has already issued notice to the third respondent for removal of the encroachment. The Court has no jurisdiction to entertain a suit in respect of proceedings initiated under the Tamil Nadu District Municipalities Act, 1920. It is for the Corporation to take further proceedings pursuant to the notice.

6.The third respondent shall be given reasonable time to submit her response and to produce documents. The Commissioner, Trichy Corporation shall consider the documents produced by the third respondent and take a decision in the matter of removal of encroachment. We make it clear that it is open to the first respondent to proceed further notwithstanding the pendency of the civil suit, which is not legally maintainable.

7.This Writ Petition is disposed of with the above direction.
No Costs.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-II)



- 1 CC TO Mr.V.R.VENKATESAN , ADVOCATE IN SR No. 95975.
- + 1 CC TO Mr.B.JAMEEL ARASU , ADVOCATE IN SR No.95994.
- + 1 CC TO Mr.N.S.KARTHIKEYAN , ADVOCATE IN SR No.95801.
- SJ
- DS RSK SAR1 19 12 2018 3P 4C

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