



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.(MD) No.21830 of 2018
and W.M.P.(MD) No.19748 of 2018

G.Kamaraj

... Petitioner

vs.

1.The District Collector,
Madurai District.

2.The Commissioner,
Madurai Corporation,
Madurai District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned notice dated 18.10.2018 issued by the 2nd respondent and quash the same as illegal and consequentially direct the respondents to measure the canal with the latest FMB sketch.

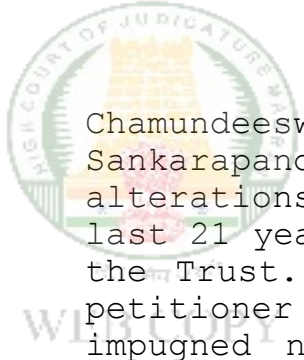
For Petitioner	: Mrs.Chamundi Bose
For Respondents	: Mr.V.R.Shanmuganathan Special Government Pleader for R1 Mr.R.Murali for R2 Standing Counsel for Corporation

ORDER

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

This Writ Petition is directed against the impugned proceedings dated 18.10.2018 issued by the Commissioner, Madurai Corporation, thereby directing the petitioner to remove the encroachment made by him on the Panaiyur Channel poramboke by building a house to an extent of 11.60 m x (2+1.70/2m) within seven days.

2. Learned counsel for the petitioner, assailing the impugned proceedings, heavily contended that the impugned notice has been issued against the petitioner without even measuring the land and not identifying the extent of encroachment. When the petitioner had purchased the property situated in 45E New Ramnad Road in the name of her mother Mrs.Krishnaveni on 11.02.1998 from one Vijaya



Chamundeeswari, who has purchased the same from another vendor Sankarapandian on 05.02.1985 and after some time, he has made some alterations, now, the petitioner is living in the said house for the last 21 years by paying the property tax, water tax and land rent to the Trust. Adding further, she submitted that after allowing the petitioner to live in the said place for more than two decades, the impugned notice ought not to have been issued. Therefore, the petitioner is under the compulsion to challenge the same, she pleaded. In order to substantiate her contention, the learned counsel produced photographs.

3. However, a perusal of photographs clearly shows that the channel is carrying huge amount of drainage water and on the bank of the channel, houses have been constructed. The petitioner has not even produced any patta or assignment to show that she is the owner of the property.

4. Learned counsel for the respondent Corporation submitted that original breadth of the drainage channel is 30 feet and after construction of the cement concrete walls, it has been shrunk and now, in view of the construction and encroachment of houses, mainly on the bank of the channel, the Corporation employees are not able to supervise and clean up the channel. Therefore, the construction of the residential house is not at all permitted on the bank of the channel, which will cause serious epidemic and contagious diseases to the persons, who are living there. Moreover, the second respondent has taken a decision to clean all the channels and they are not able to go along the channels, because of the construction come up by way of encroachments on the entire channel. Therefore, the impugned notice has been issued indicating clearly the encroachment made by the petitioner. He has also submitted that since the petitioner has repeatedly pleaded before this Court that no survey or measurement has been made, once again, in the presence of the petitioner with sufficient revenue records survey, measurement will be done and thereafter the removal of encroachment will be proceeded.

5. Recording the submission of the learned counsel for the respondent Corporation, this writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-I)

To

<https://hcservices.ecourts.gov.in/hcservices/>
1. The District Collector,
Madurai District.



2.The Commissioner,
Madurai Corporation,
Madurai District.

+1CC to Mrs.Chamundi Bose, Advocate, SR.No.92530

+1CC to Mr.R.Murali, Advocate, SR.No.92303

+1CC to the Special Government Pleader SR.No.92237

W.P. (MD) No.21830 of 2018

and

W.M.P. (MD) No.19748 of 2018

25.10.2018

RR

ES/SKN/RSK/SAR 1/22.11.2018/3P/6C