



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.4306 of 2019

and

W.M.P. (MD) .No.3421 of 2019

R.udayakumar

... Petitioner

Vs.

1. The Commissioner,
Tiruchirappalli City Municipal Corporation,
Cantonment,
Tiruchirappalli 620 001.

2. The Assistant Commissioner,
Srirengam Zone,
Tiruchirappalli City Municipal Corporation,
Srirengam,
Tiruchirappalli 620 006.

3. V.Sankaran

... Respondents

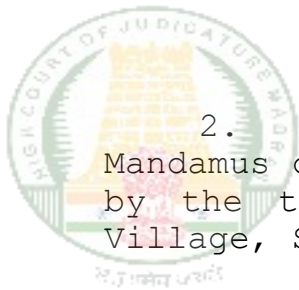
Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 and 2 to remove the hut put up illegally by the third respondent on the road comprised in T.S.No.1349 part situated on the west of the Plot No.24 comprised in T.S.No.1350/1A measuring to an extent of 2980 sq.ft. north south on the west 73-1/2 on the east 75-1/2 east west on both sides 40 situated at Thimmarayasamuthram Village, Srirengam Taluk, Tiruchirappalli District.

For Petitioner	:	Mr.K.S.Shankar Murali
For R1 & R2	:	Mr.Saji Bino
For R3	:	Mr.M.Dinesh Hari Sudarsan

O R D E R

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

Heard Mr.K.S.Shankar Murali, learned counsel appearing for the petitioner, Mr.Saji Bino, learned Standing counsel appearing for the respondents 1 and 2 and Mr.M.Dinesh Hari Sudarsan, learned counsel appearing for the third respondent.



2. The prayer in the writ petition is to issue writ of Mandamus directing the respondents 1 and 2 to remove the hut put up by the third respondent in T.S.No.1349 in Thimmarayasamuthram Village, Srirangam Taluk, Tiruchirapalli District.

3. The grievance of the petitioner is that the third respondent has made encroachment in a public road in Town Survey No.1349, which has not been removed despite his representation.

4. The learned counsel appearing for the petitioner would state that it would suffice to issue direction to the first respondent to consider the petitioner's representation, dated 30.08.2011.

5. The learned Standing counsel appearing for the respondents 1 and 2 would state that this writ petition has been filed based on the representation given in the year 2011 and if fresh representation is given, it would be considered in accordance with law.

6. The learned counsel appearing for the third respondent would state that this writ petition has been filed after dismissal of the suit in O.S.No.1449 of 2017 for default. Now an application has been filed to restore the suit. It is further contended that when the suit is pending, the petitioner has no right to maintain this writ petition.

7. However, considering the facts and circumstances of the case, this Court, without going into the merits of the matter, directs the petitioner to give a fresh representation by enclosing a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the first respondent shall consider the same and pass orders purely on merits and in accordance with law, after providing opportunity to the petitioner and the third respondent. Such exercise shall be completed within a period of three months.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

akv



1. The Commissioner,
Tiruchirappalli City Municipal Corporation,
Cantonment,
Tiruchirappalli 620 001.

2. The Assistant Commissioner,
Srirengam Zone,
Tiruchirappalli City Municipal Corporation,
Srirengam,
Tiruchirappalli 620 006.

+1CC TO MR.S.SAJI BINO, Advocate Sr. No.57256

+1CC TO MR.K.S.SANKAR MURALI, Advocate Sr. No.56838

+1CC TO MR.M.DINESH HARI SUDARSAN, Advocate Sr. No. 57617

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TR (11.04.2019) 3P 6C