



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2019

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CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE R. THARANI

Writ Petition (MD) No. 8324 of 2019

Sumathi

.. Petitioner

Vs.

1. The District Collector,
Sivagangai District.
Sivagangai.

2. The Thasildhar,
Karaikudi Taluk,
Karaikudi,
Sivagangai District.

3. The Commissioner,
Karaikudi Municipality,
Karaikudi,
Sivagangai District.

4. The Assistant Executive Engineer,
Public Works Department
Water Resources Organization,
Govindarajulu Street,
Karaikudi, Sivagangai District.

5. Thiruselvam

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order NIL dated 11.1.2019 issued by the 2nd respondent and quash the same and consequently direct the respondents 1 & 2 to remove the encroachment in Town Survey No. 1111 to 1138 (Karaikudi Kanmoi Channel) situated at Karaikudi Town, Sivagangai District.

For Petitioner : Mr. P. Arun Jayatram

For Respondents : Mr. V. R. Shanmuganathan

Special Govt. Pleader

for RR-1, 2 & 4

Mr. P. Mahendran for R-3

**ORDER**

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

The writ petition has been filed to quash the order of the second respondent, dated 11.01.2019 and consequently direct the respondents 1 & 2 to remove the encroachment in Town Survey No.1111 to 1138 (Karaikudi Kanmoi Channel) situated at Karaikudi Town, Sivagangai District.

2.The case of the petitioner is that she purchased a property measuring an extent of 607 sq.ft along with a building in T.S.No.429/1B1A from one Kaliammal, W/o.Arumugam, vide registered sale deed dated 26.02.2007. The fifth respondent is residing opposite to the petitioner's house and due to a dispute, a suit in O.S.No.72 of 2016 was instituted before the learned Principal District Munsif Court, Karaikudi seeking the relief of permanent injunction. The petitioner would claim that the suit was decreed.

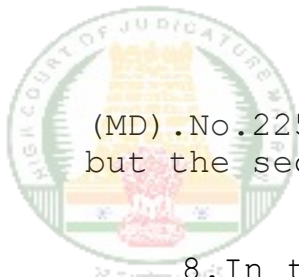
3.The grievance of the petitioner is that the fifth respondent, suppressing the material facts, filed a writ petition in W.P.(MD). No.22573 of 2017, as if the petitioner has encroached in Town Survey Nos.1111 to 1138.

4.It seems that in the meanwhile, the second respondent has issued this impugned order. This Court disposed of the writ petition directing the petitioner herein to give a reply treating the impugned order as a show-cause notice. Accordingly, the petitioner submitted a reply on 28.02.2019.

5.Mr.Arun Jeyatram, the learned counsel for the petitioner would argue that the reply of the petitioner was not considered and on the other hand, the respondents have come to the house of the petitioner to evict her. It is further stated that there is no water channel, as claimed by the second respondent and apart from her, other persons also have put up constructions and residing in the area.

6.The learned counsel for the petitioner would also state that the second respondent issued a notice dated 26.02.2019 directing the petitioner to appear for enquiry on 07.03.2019, the petitioner received the notice only on 08.03.2019 and hence, she could not appear for enquiry.

7. Mr. V. R. Shanmuganathan, learned Special Government Pleader would state that the show-cause notice dated 22.03.2017 was issued to remove the encroachers and as per the order of this Court in W.P.



(MD).No.22573 of 2017, the reply of the petitioner was considered, but the second respondent has not passed any final orders yet.

8. In the light of the grievance expressed by the petitioner and the submissions of the learned counsel on either side, this Court directs the second respondent to consider the reply submitted by the petitioner dated 28.02.2019 and after providing an opportunity of hearing to the petitioner and to pass final orders. If survey report shows encroachment, all the encroachers shall be removed, by following the procedure established by law.

9. With the above direction and observation, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Sivagangai District. Sivagangai.

2. The Thasildhar,
Karaikudi Taluk,
Karaikudi, Sivagangai District.

3. The Commissioner,
Karaikudi Municipality,
Karaikudi, Sivagangai District.

4. The Assistant Executive Engineer,
Public Works Department
Water Resources Organization,
Govindarajulu Street,
Karaikudi, Sivagangai District.

+1 CC to M/s.P.MAHENDRAN, Advocate in SR-59674
+1 CC to M/s.P.ARUN JAYATRAM, Advocate in SR-59987
+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.59947

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vs

PK/25.04.2019 : 3P/8C