



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD) No.15434 of 2019

and

W.P.(MD)No.11914 of 2019 and W.M.P.(MD) No.9010 of 2019

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W.P.(MD) No.15434 of 2019

P.Karunanidhi

... Petitioner

Vs.

1) The District Collector,
Trichy District.

2) The Tahsildar,
Thuraiyur Taluk,
Trichy District.

3) Rajesh

... Respondents

W.P.(MD)No.11914 of 2019

Rajesh

... Petitioner

Vs.

1) The District Collector,
Collectorate,
Trichy - 1

2) The Revenue Divisional Officer,
Musiri.

3) The Tahsildar,
Turaiyur Taluk,
Trichy District.

4) The Assistant Divisional Engineer,
Highways Department,
Turaiyur Taluk,
Trichy District.



5) Yogaraja

6) Karunanithi

... Respondents

PRAYER in W.P. (MD) No.15434 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to remove the encroachments made by the 3rd respondent in Survey No.168/11, situated in Murugoor Village, Thuraiyur Taluk, Trichy District in compliance to the order passed by the 2nd respondent dated 06.05.2019.

PRAYER in W.P. (MD) No.11914 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus forbearing the respondents 1 to 3 and their men or servants or sub-ordinates from desilting the pond situated in S.No.168/11 in Murugur Village, Turaiyur Taluk, Trichy District.

In both the Writ Petitions:

For Petitioner in W.P. (MD) No.15434 of 2019 & R6 in W.P. (MD) No.11914 of 2019 : Mr.R.Maheswaran

For Petitioner in W.P. (MD) No.11914 of 2019 & R3 in W.P. (MD) No.15434/2019 : Mr.N.Mohan

For RR 1 to 4 in W.P. (MD) No.11914 of 2019 & RR 1 & 2 in W.P. (MD) No.15434/2019 : Mr.M.Karuppasamy, Government Advocate

For R5 in W.P. (MD) No. 11914/2019 : No Appearance

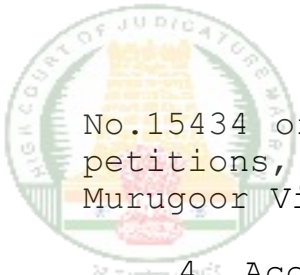
C O M M O N O R D E R

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

1. W.P. (MD) No.15434 of 2019 is filed for Mandamus directing the first respondent to remove the encroachments made by the 3rd respondent in Survey No.168/11, situated in Murugoor Village, Thuraiyur Taluk, Trichy District.

2. W.P. (MD) No.11914 of 2019 is filed for Mandamus forbearing the respondents 1 to 3 therein from desilting the pond situated in S.No.168/11 in Murugur Village, Turaiyur Taluk, Trichy District.

3. The petitioner in W.P. (MD) No.15434 of 2019 is the 6th respondent in W.P. (MD) No.11914 of 2019. Likewise, the petitioner in W.P. (MD) No.11914 of 2019 is the third respondent in W.P. (MD)



No.15434 of 2019. The subject matter referred to in both the writ petitions, namely the property situated at Survey No.168/11 at Murugoor Village, is one and the same.

4. According to the learned counsel for the writ petitioner in W.P.(MD) No.15434 of 2019, the third respondent therein has encroached upon the said government land and therefore, action has to be taken by the first respondent to remove the said encroachment. On the other hand, according to the writ petitioner in W.P.(MD) No.11914 of 2019, the property situated at S.No.168/11 is a pond and therefore, the official respondents could not desilt the same and shall allow it to remain as a pond only.

5. While hearing both these writ petitions together, the learned Government Advocate, based on written instructions, submitted that, the subject matter property is not a pond and on the other hand, it is referred in the revenue records as 'road margin'. Therefore, he contended that none of the writ petitioners have got any right whatsoever to encroach upon the road margin. The learned counsel appearing for the writ petitioner in W.P.(MD) No.11914 of 2019 is not disputing the fact that the subject matter property belongs to the Government but he claims that it is a pond. Though he makes such a claim, the revenue records produced before this Court would only indicate that it is not referred to as a 'pond' and on the other hand, it is referred only as 'road margin'. When such being the factual position, we are of the view that none of the petitioners have any right over the said government property by way of making any encroachments. Therefore, both the writ petitions are disposed of by directing the official respondents to keep the said property situated at S.No.168/11, Murugoor Village in the very same position as it exists today. It is made clear that, as it is a government property, no encroachment shall be permitted to be made in the said property by any person.

6. With the above directions, both the writ petitions are disposed of. No costs. Consequently, connected W.M.P.(MD) No.9010 of 2019 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1) The District Collector,
Trichy District.

2) The Tahsildar,
Thuraiyur Taluk,
Trichy District.

3) The Revenue Divisional Officer,
Musiri.

4) The Assistant Divisional Engineer,
Highways Department,
Turaiyur Taluk,
Trichy District.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-79125[F] dated 01/08/2019)

+1 CC to M/s.SPL GP (SR-79279[F],79283 dated 01/08/2019)

Common Order made in
W.P. (MD) Nos.15434 & 11914 of 2019

Dated:
31.07.2019

KK/SAR/26.08.2019/4P-7C/