



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.18016 of 2019

and

W.M.P. (MD)No.14470 of 2019

V.Pandiarajan : Petitioner
Vs.

1. The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai East Taluk,
Madurai District.

3.The Block Development Officer,
Madurai East Panchayat Union,
Madurai District.

4.Mrs.K.Sukila : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent's impugned notice in Na.Ka.No.667/2018/Thi3, dated 17.08.2019 and quash the same as illegal and consequently direct the third respondent to abide the final verdict of the suit in O.S.No.226 of 2018 on the file of the V Additional District Judge, Madurai.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel
for Mr.A.Haja Mohideen

For R-1 & R-2 : Mr.VR.Shanmuganathan
Special Government Pleader

For R-3 : Mrs.S.Srimathi
Special Government Pleader

For R-4 : Mr.V.Meenakshisundaram
for Mr.P.M.Vishnuvarathan



O R D E R

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

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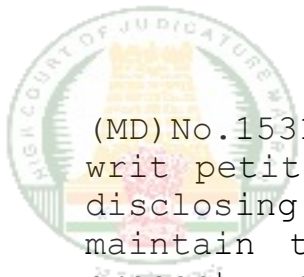
This writ petition is filed challenging the notice, dated 17.08.2019, issued by the third respondent, wherein and whereby the petitioner was called upon to remove the encroachment on or before 19.08.2019 also with an indication that failure to do so will result in removal of the encroachment with the help of revenue and police officials.

2.Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 1 and 2; Mrs.S.Srimathy, learned Special Government Pleader takes notice for the third respondent and Mr.V.Meenakshisundaram, learned counsel takes notice for the fourth respondent.

3.The learned Senior Counsel appearing for the petitioner Mr.Veera Kathiravan contended that since the respondents are being represented through their respective counsels even at the admission stage, the main writ petition itself can be taken up and decided at the admission stage.

4.The challenge made in this writ petition is against the eviction notice issued by the third respondent, dated 17.08.2019. According to the writ petitioner, the encroachment referred to in the impugned notice is not an encroachment at all and on the other hand, it is a private property sold to the writ petitioner by his vendor and therefore, the authorities are not competent to issue the impugned proceedings. He further submitted that the petitioner has already filed a Civil Suit in O.S.No.226 of 2018 on the file of V Additional District Court, Madurai, seeking for comprehensive relief against the official respondents as well as private parties. Therefore, he contended that the present impugned notice cannot be sustained.

5.On the other hand, learned counsels appearing for the respondents submitted that the present writ petition is liable to be dismissed with exemplary cost for suppression of material facts. It is stated by the learned counsels that the very same petitioner though has filed three writ petitions earlier arising out of the same issue and has, however, chosen to disclose only the writ petition filed in W.P.(MD)No.13053 of 2018 without disclosing the filing and the orders made therein or other two writ petitions, one in W.P.(MD)No.11862 of 2019 and other in W.P.



(MD)No.15315 of 2019. They further contended that both the above writ petitions were dismissed by this Court and therefore, by not disclosing those facts, the writ petitioner is not entitled to maintain the present writ petition and on the other hand, the present writ petition is liable to be dismissed with exemplary cost.

6.On coming to know about the above submissions made by the learned counsels appearing for the respondent, the learned Senior Counsel for the writ petitioner Mr.Veera Kathiravan immediately informed this Court that all these facts regarding the suppression of the earlier writ petitions were not brought to his notice and therefore, he is not supporting the case of the writ petitioner any further. His statement is recorded.

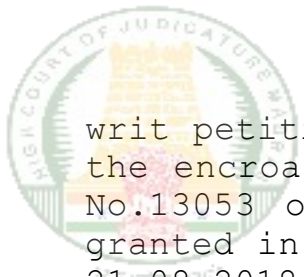
7.Heard both sides and perused the materials placed before this Court.

8.It is seen from the facts and circumstances placed before this Court that the third respondent herein has filed W.P.(MD) No.12725 of 2016 for Mandamus directing the respondents to consider her representation dated 29.06.2019 and to take appropriate action to remove the encroachment made in the pathway measuring 23 feet situated at Rajakambeeram Village, Madurai East Taluk, Madurai. The said writ petition was disposed on 02.02.2018 by observing as follows:-

"6.Though the petitioner prays for a larger relief, this Court, in the light of the aforesaid facts and circumstances of the case and without going into the merits of the claim projected by the petitioner either in this Writ Petition or in her representation, permits the petitioner to submit a representation to the jurisdictional local body along with relevant materials, documents and photographs, within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the said authority is directed to consider the said representation, and shall put on notice Mr.Pandiyarajan, the Correspondent of the Modern Matriculation School, Hajis Garden, Rajakambeeram, Madurai East Taluk, Madurai District and thereafter, shall consider and dispose of the same, on merits and in accordance with law, within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as the said Mr.Pandiyarajan."

Therefore, it is evident that the subject matter encroachment referred to in the above writ petition is in respect of the same property referred to in the present writ petition.

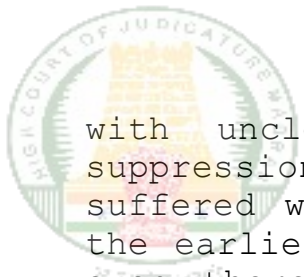
<https://hcservices.ecourt.gov.in/hcservices/> After, a notice, dated 08.06.2018 was issued to the



writ petitioner by the third respondent calling upon him to remove the encroachment. The said order was put to challenge in W.P.(MD) No.13053 of 2018. Though initially an interim order of stay was granted in the said writ petition, subsequently, by an order dated 21.08.2018, the Division Bench of this Court dismissed the said writ petition with a cost of Rs.15,000/- payable by the petitioner to the respondents 6 to 8 therein by observing that the petitioner has approached this Court with unclean hands. The said order of the Division Bench was further challenged before the Hon'ble Apex Court in S.L.P.(C).No.4346 of 2019. However, the writ petitioner has chosen to withdraw the said SLP and accordingly, the same was dismissed as withdrawn by order dated 01.04.2019.

10. Thereafter, another notice dated 25.04.2019 was issued by the very same third respondent for removal of the encroachment and the same was again challenged by the petitioner before this Court in W.P.(MD)No.11862 of 2019. The said writ petition was dismissed on 08.05.2019 by observing that the same is not maintainable, since the writ petitioner has chosen to withdraw the SLP before the Hon'ble Apex Court and that the prayer sought for in the above writ petition as well as the prayer sought for in the earlier writ petition in W.P.(MD)No.13053 of 2018 is one and the same. Thereafter, another notice, dated 24.06.2019 was issued by the third respondent. The said notice was again put to challenge in W.P.(MD)No.15315 of 2019. However, the said writ petition was subsequently withdrawn by the petitioner and accordingly, the same was dismissed as withdrawn by an order dated 19.07.2019. Thereafter, the present impugned notice was issued on 17.08.2019. However, while filing the present writ petition, the petitioner has not stated anything about the earlier two writ petitions filed in W.P.(MD)Nos.11862 of 2019 and 15315 of 2019 and the orders of dismissal passed therein. It is a clear and deliberate suppression of material facts, that too by filing multiple writ petitions on the same issue. Thus, it amounts to abuse of process of Court as well.

11. The petitioner is not an illiterate. He is running a matriculation school. He is repeatedly filing writ petitions one after another arising out of the same cause of action. He has conveniently and deliberately suppressed the material facts of filing the earlier two writ petitions and its dismissal. Therefore, it is evident that the petitioner seeks to get some order from this Court by suppression of material facts. In fact, this matter was sought to be brought before this Court for admission by way of lunch motion yesterday. However, we were not inclined to grant such permission to bring this matter by way of lunch motion. Hence, the matter is listed for admission today. Fortunately, the learned counsels for the respondents appeared and presented the material facts to expose the petitioner, who has come



with unclean hands, that too, to deceive this Court with suppression of material facts. Already, the petitioner has suffered with an order from the Division Bench of this Court in the earlier writ petition imposing cost of Rs.15,000/-. It seems, even thereafter the petitioner has not realised that he should come to this Court with clean hands without suppressing material facts. On the other hand, he has chosen to file the present writ petition to challenge the present impugned notice, as if, nothing had happened before. The above conduct of the petitioner in playing with Court proceedings should be dealt with seriously. Therefore, we are inclined to dismissed this writ petition by imposing heavy cost on the writ petitioner.

12. Accordingly, the writ petition is dismissed with cost of Rs.1,00,000/- (Rupees One Lakh Only) payable by the petitioner to the Legal Services Authority of this Court, within a period of two weeks from the date of receipt of a copy of this order, failing which, the concerned revenue authorities, deputed by the first respondent, shall take steps to recover the said amount through Revenue Recovery Act and pay the same to the Legal Services Authority of this Court. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The District Collector,
Madurai District,
Madurai.

2. The Tahsildar,
Madurai East Taluk,
Madurai District.

3. The Block Development Officer,
Madurai East Panchayat Union,
Madurai District.

Copy to

The Officer Incharge,
Legal Services Authority
Madurai Bench of Madras High Court,

<https://hcservices.madurai.gov.in/hcservices/>



+1 CC to M/s.A.HAJAMOHIDEEN, Advocate (SR-82501[F] dated 20/08/2019)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-82646[F] dated 21/08/2019)

+1 CC to M/s.P.M. VISHNU VARATHAN, Advocate (SR-82743[F] dated 21/08/2019)

+1 CC to M/s.SPL GP (SR-82831[F] dated 21/08/2019)

W.P. (MD)No.18016 of 2019
20.08.2019

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