



WEB COPY

W.P.(MD).No.19141 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD) .No.19141 of 2019

and

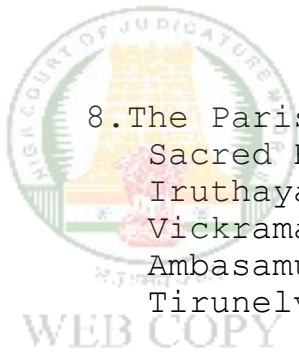
W.M.P. (MD) .No.15497 of 2019

T.Murugesan

... Petitioner

Vs.

- 1.The District Collector,
Tirunelveli District,
Collectorate, Kokkirakulam
Tirunelveli.
- 2.The Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District.
- 3.The Regional Director,
Municipal Administration,
Tirunelveli Region,
Tiruvananthapuram High Road,
Palayankottai, Tirunelveli-2.
- 4.The Executive Officer,
Vickramasingapuram Municipality,
Ambasamudram Taluk,
Tirunelveli District.
- 5.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 6.The Deputy Superintendent of Police,
Ambasamudram,
Tirunelveli District.
- 7.The Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District.



8.The Parish Priest,
Sacred Heart Church,
Iruthayakulam,
Vickramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 7 to remove the structures constructed by the 8th respondent by violating Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 and also blocking the Ilanthaikulam Surplus Water Channel in old Survey No.385/2 and UDR Survey No.1370/23, 1370/24 of Vickramasingapuram Part-1 Village, Ambasamudram Taluk, Tirunelveli District.

For Petitioner	: Mr.P.Subbiah
For R1toR3 and R5 to R7	: Mr.A.K.Baskara Pandian Special Government Pleader
For R4	: Mr.H.Arumugam

O R D E R

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.P.Subbiah, learned counsel appearing for the petitioner and Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing on behalf of the respondent Nos.1 to 3 and 5 to 7 and Mr.H.Arumugam, learned Counsel appearing for the fourth respondent.

2.By consent of either side, this writ petition is taken up for disposal.

3.This writ petition has been filed designed as public interest litigation. In the light of the orders to be passed as public interest litigation, notice to the 8th respondent is dispensed with.

4.This writ petition is filed designed as the public interest litigation to direct the fourth respondent, who is the commissioner of Vickramasingapuram Municipality, Ambasamudram, Tirunelveli Taluk (wrongly mentioned as Executive Officer) to remove certain structures constructed by the eight respondent on the ground that it is in violation of the Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 and it also blocks the water channel in old Survey No.385/2 and UDR Survey Nos.1370/23, 1370/24 of Vickramasingapuram Part-I Village.

5.Since we are disposing of the writ petition without notice to the 8th respondent, we restrain from expressing any opinion on the



merits of the matter, the reason intended to dispose of the writ petition. At this juncture, without notice to the 8th respondent on the ground that already the Commissioner of Vickramasingapuram Municipality had issued a notice, dated 27.08.2018 directing the 8th respondent to remove the offending wall as it blocks the water channel. A direction was forthwith to remove the wall, failing which, the Commissioner stated that action would be taken in exercise of its power under Section 339 of the Act and recovered the cost of removal of the offending wall from the 8th respondent and also to initiate prosecution against the 8th respondent under Section 317 of the Act. From the records placed before this Court, we find that no action has been initiated pursuant to the notice, dated 27.08.2018. It is not clear as to whether the eight respondent has resorted to any other remedy as against the said notice. As already mentioned, we do not express any opinion on the merits of the matter, however, one aspect which has to be taken note of by the Commissioner, Vickramasingapuram Municipality is that if he has already issued notice on 27.08.2018, he should proceed with the same in accordance with law, after affording due opportunity to the 8th respondent and merely because it is not sufficient for the Commissioner to issue a notice and remain silent, but however, there is nothing on record to show that there is any order preventing the Commissioner from proceeding further with the notice, dated 27.08.2018. In the light of the above, we will direct the Commissioner to proceed further pursuant to the notice dated 27.08.2018 after due intimation and notice to the 8th respondent as expeditiously as possible.

6. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Tirunelveli District,
Collectorate, Kokkirakulam
Tirunelveli.

2. The Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District.



- 3.The Regional Director,
Municipal Administration,
Tirunelveli Region,
Tiruvananthapuram High Road,
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Vickramasingapuram Municipality,
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- 5.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 6.The Deputy Superintendent of Police,
Ambasamudram,
Tirunelveli District.
- 7.The Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District.
- 8.The Commissioner,
Vickramasingapuram Municipality,
Tirunelveli District.

+1 CC to Mr.P. SUBBIAH, Advocate SR-84941.
+1 CC to Mr.H. ARUMUGAM, Advocate SR-85082.
+1 CC to SPL GP SR-85337.

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and

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CS(20.09.2019) 4P 12C