



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.19749 of 2019
and
W.M.P. (MD)No.16240 of 2019

A.Rajendran

.. Petitioner

Vs.

1.The Tahsildar,
Srivilliputhur - Taluk,
Virudhunagar District.

2.The Block Development Officer (Village Panchayat),
Watrap Taluk,
Virudhunagar District.

3.The Executive Officer,
Kunnur Panchayat,
Watrap Taluk,
Virudhunagar District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order with the caption letter memo Na.Ka.No.B2/154/2019 dated 06.08.2019 issued by the second respondent and quash the same as void and unlawful.

For Petitioner : Mr.F.X.Eugene

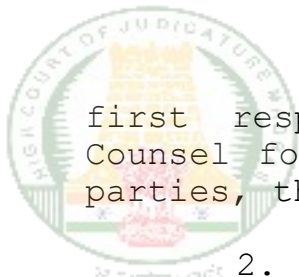
For R1 : Mr.A.K.Baskara Pandian
Special Government Pleader

For R2 and R3 : Mr.J.Gunaseelan Muthiah
Standing counsel

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.F.X.Eugene, learned counsel for the petitioner,
Mr. A. K. Basakara Pandian, learned Special Government Pleader, for the
<https://hcservices.ecourts.gov.in/hcservices/>



first respondent and Mr.J.Gunaseelan Muthiah, learned Standing Counsel for the second and third respondents. By consent of both parties, this writ petition is taken up for final disposal.

2. By way of this Public Interest Litigation the petitioner seeks to quash the notice issued by the second respondent, dated 06.08.2019, by which the second respondent has directed the petitioner to vacate the encroachment alleged to have been made by him based on the orders passed in W.P.(MD)No.24151 of 2018, dated 19.07.2019. We have gone through the order passed by the Hon'ble Division Bench of this Court and we find that the second respondent has misinterpreted the order or has failed to understand the scope of the directions issued by this Court. For better appreciation, we quote the portion of the order, dated 19.07.2019.

"4.In view of the fact that the petitioner is only asking for his representation, dated 16.10.2018, to be considered and for consequential action, if it is found that the construction made by the fifth respondent is illegal, without expressing any opinion on the merits of the dispute, we propose to dispose of the writ petition, by directing the fourth respondent, to consider the representation, dated 16.10.2018, of the petitioner and pass orders thereon, within a period of four weeks from the date of receipt of a copy of this order, after providing reasonable opportunity of hearing both to the petitioner and the fifth respondent. The said decision shall be made by a speaking order on merits and in accordance with law."

3. As can be seen from the above direction, the second respondent was directed to consider the representation of the writ petitioner therein / V.Srinivasagan and provide reasonable opportunity of hearing to both the petitioner and the fifth respondent therein and pass a speaking order on merits and in accordance with law. The second respondent has misunderstood the order as if the Court directed to vacate the alleged encroachment. Therefore, the impugned notice is unsustainable. Accordingly the impugned order is set aside, since the second respondent has committed an error and the second respondent is directed to implement the directions issued in the earlier writ petition in letter and spirit. If he has any doubt as regards the directions of this Court, he may consult the learned Standing Counsel appearing on behalf of the second respondent before taking decision in the matter. The time for compliance of the earlier directions of this Court, dated 19.07.2019, is a period of four weeks from the date of receipt of a copy of this order.



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W.P(MD)No.19749 of 2019

4. With the above direction this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Tahsildar,
Srivilliputhur - Taluk,
Virudhunagar District.

+1 CC to SPL GP SR-87239.

+1 CC to Mr.F.X. EUGENE, Advocate SR-86764.

ORDER MADE IN
W.P (MD) No.19749 of 2019
16.09.2019

CS(30.09.2019) 3P 4C