



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2019

CORAM:

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

W.P (MD)No.19855 of 2019
and
W.M.P. (MD)No.16363 and 16364 of 2019

Nirmala

.. Petitioner

Vs.

1.The District Collector,
Pudukottai.

2.The Tahsildar,
Illupur Post and Taluk,
Pudukkottai District.

3.The Executive Officer,
Illupur Town Panchayat,
Pudukkottai District.

4.M.Joseph @ Jegadheesan

.. 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 of the third respondent in Na.Ka.No.303/2017, dated 05.09.2019 and quash the same as illegal and arbitrary.

For Petitioner : Mr.P.Ganapathi Subramanian

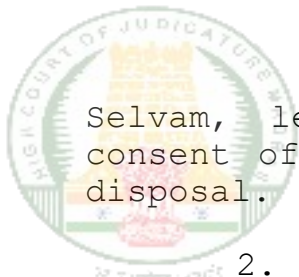
For R1 and R2 : Mr.A.Muthukaruppan
Additional Government Pleader

For R3 : Mr.N.Shanmuga Selvam
Standing Counsel

ORDER

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

Heard Mr..Ganapathi Subramanian, learned counsel for the petitioner, Mr.A.Muthukaruppan, learned Additional Government Pleader for the first and seconds respondent and Mr.N.Shanmuga



Selvam, learned Standing Counsel for the third respondent. By consent of both parties, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the notice issued by the third respondent, dated 05.09.2019 calling upon the petitioner to vacate the encroachment stated to have been caused by him in a 20 feet wide road.

3. Even as per the impugned notice, it is stated that the 20 feet road has not been handed over to the third respondent Panchayat. The impugned notice is in consequence of a direction issued by this Court in W.P.(MD)No.5121 of 2019 dated 26.04.2019, to which one of us (Hon'ble MRS.JUSTICE R.THARANI) was a party. The said writ petition was filed by the fourth respondent herein stating that the petitioner has encroached.

4. It is pointed out by the learned counsel for the petitioner that in the affidavit filed in support of W.P.(MD)No.5121 of 2019 in paragraph No.3, it is stated that there is a public pathway to an extent of 12 feet width towards east-west. The impugned notice states that the pathway is 20 feet and they term it as a road. Since the petitioner, who is the fourth respondent in the earlier writ petition filed by M.Joseph @ Jegadhgeesan was not issued notice in that writ petition, because the Court deems not to issue any positive direction. It goes without saying that the petitioner should have an opportunity to place all facts before the third respondent.

5. Accordingly, the petitioner is directed to treat the impugned notice as show cause notice and submit her objections along with all documents in respect of her claim within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, an inspection shall be conducted by the third respondent in the presence of the petitioner and the fourth respondent, thereafter proceed to pass a speaking order on merits and in accordance with law.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar



To

1.The District Collector,
Pudukottai.

2.The Tahsildar,
Illupur Post and Taluk,
Pudukkottai District.

3.The Executive Officer,
Illupur Town Panchayat,
Pudukkottai District.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-87217[F] dated 17/09/2019)

+1 CC to M/s.SPL GP (SR-87553[F] dated 18/09/2019)

W.P (MD) No.19855 of 2019
17.09.2019

TA

MS/03.10.2019/3P.6C