



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD)No.19757 of 2019
and
W.M.P (MD)No.16246 of 2019

B.Gurunathan

... Petitioner

vs.

- 1.The District Collector,
Sivagangai District.
- 2.The District Revenue Officer,
O/o.District Revenue Officer,
Sivagangai District.
- 3.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Sivagangai.
- 4.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.
- 5.Karuppasamy

6.Balasubramanian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to restrain the respondents 5 and 6 from interfering in works repairing in the Ooranies and water bodies situated in Maarnadu Village, Manamadurai Taluk, Sivagangai District and direct the respondents 1 to 4 to take action against the respondents 5 and 6 for their illegal activities by considering the petitioner's representation dated 25.07.2019 within a time limit stipulated by this Court.

For Petitioner : Ms.R.Karthiga
for M/s.Right Law Associates

For RR 1 to 4 : Mr.B.Bhagawathi,
Government Advocate.



ORDER

Ms.R.Karthiga, learned counsel on record for writ petitioner is before this Court.

2.Mr.B.Bhagawathi, learned Government Advocate, accepts notice on behalf of respondents 1 to 4 (official respondents).

3.To be noted, respondent Nos.5 and 6 are private respondents. In the hearing, learned counsel for writ petitioner restricts the prayer to disposal of representation. From the abridged prayer it comes to light that an order, which is not adverse to respondents 5 and 6 (private respondents) can be passed, after making sufficient and adequate safe-guards in this regard.

4.With consent of learned counsel on record for the writ petitioner and learned Government Advocate, who accepts notice on behalf of respondents 1 to 4 (official respondents), main writ petition is taken up, heard out and is being disposed of.

5.The main writ petition turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioner's representation dated 25.07.2019 wherein writ petitioner has sought protection of a burial ground and some trees while removing encroachments.

6.Notwithstanding several averments made in the affidavit filed in support of the writ petition, notwithstanding several grounds raised / contentions urged in the affidavit filed in support of instant writ petition, learned counsel for writ petitioner abridges the scope of the writ petition and submits that it will suffice if the first respondent is directed to dispose of the aforementioned representation of the writ petitioner, dated 25.07.2019 on its own merits and in accordance with law.

7.Learned State counsel submitted that the first respondent is the authority who shall consider the aforementioned representation dated 25.07.2019 made by the writ petitioner (page Nos.15 to 17 of the typed set of papers forming part of the case file).

8.Though obvious, it is made clear that petitioner abridging the prayer will not tantamount to writ petitioner giving up the contentions raised in the writ petition. In other words, all contentions raised in the writ petition are left open.

9.The aforesaid representation dated 25.07.2019 shall be disposed of by the first respondent on its own merits and in accordance with law as expeditiously as possible and in any event, within a fortnight from the date of receipt of a copy of this order.



10.It is made clear that in the course of the representation being considered by the first respondent, if the rights of any other third party / parties or any other third party entity / entities is / are likely to be affected, the first respondent shall put on notice and give reasonable opportunity to such third party / parties or any other third party entity / entities, before disposing of the aforementioned writ petitioner's representation. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. It is also made clear with specificity that respondent Nos.5 and 6 have to be put on notice and given a reasonable opportunity by the first respondent before taking a decision.

11.The proceeding / order of disposal shall be communicated by the office of the first respondent to the writ petitioner under due acknowledgement within seven working days from the date of completion of aforesaid exercise.

12.Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Ps

To

- 1.The District Collector, Sivagangai District.
- 2.The District Revenue Officer,
O/o.District Revenue Officer, Sivagangai District.
- 3.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer, Sivagangai.
- 4.The Tahsildar,
Manamadurai Taluk, Sivagangai District.

+1 CC to M/s.SPL GP (SR-87234[F] dated 17/09/2019)
+1cc to Mr/s.Right Law Associates, SR.No.15441

W.P (MD) No.19757 of 2019

16.09.2019