



WEB COPY

W.P(MD)No.1539 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2020

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THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P (MD)No.1539 of 2020

and

W.M.P. (MD)Nos.1248 and 1249 of 2020

1.Kanthasamy Udaiyar

2.Chinnappa Udaiyar

... Petitioners

Vs.

1.The District Collector,
Collectorate Building,
Ramanathapuram District.

2.The Tahsildar,
Taluk Office, Paramakudi,
Ramanathapuram District.

3.The Executive Engineer,
Public Works Department/WRO,
Keezh Vaigai Basin Sub Division,
Paramakudi Taluk,
Ramanathapuram District.

4.The Assistant Engineer,
Public Works Department/WRO,
Pasanaprivu-II,
Ilaiyankudi, Sivagangai District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for records pertaining to the impugned orders passed by the fourth respondent vide his proceedings, Nil, dated 13.01.2020 in Survey No.122 to an extent of 0.02.84 sq.meter of pathway by way of laying paver block road, 0.00.56 sq.meter asbestos roof with floor and to an extent of 0.00.21 sq.meter of front balcony of house and quash the same as illegal.

For Petitioner

: Mr.D.Senthil

For Respondents

: Mr.S.Angappan

Government Advocate



ORDER

[Order of the Court was made by **M.DURAISWAMY, J.**]

The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for records pertaining to the impugned orders passed by the fourth respondent, dated 13.01.2020 in Survey No.122 measuring an extent of 0.02.84 sq.meter of pathway of laying paver block road, 0.00.56 sq.meter asbestos roof with floor and to an extent of 0.00.21 sq.meter of front balcony of house and quash the same as illegal.

2. Mr.S.Angappan, learned Government Advocate, takes notice for the respondents and submitted that on the earlier occasion one R.Sureshkanna filed a writ petition in W.P.(MD)No.21464 of 2019 to issue a writ of mandamus to direct the respondents to remove the encroachments made by the respondents 5 to 7 on the tank bund in S.No.122, situated at Keezhakavanur Village, Radhapuli Group, Paramakudi Taluk, Ramanathapuram District within a time frame and the Honourable Division Bench of this Court, by order dated 14.10.2019 directed the authorities to survey the land after putting notice on the petitioner therein as well as private respondents with adequate police protection and if any encroachment is noticed, the same shall be removed within two from the date of survey.

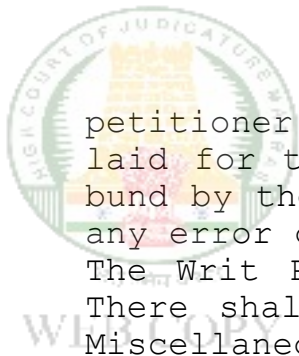
3. The learned Government Advocate appearing for the respondents submitted that pursuant to the orders of this Court, the authorities conducted survey and found that the tank bund in Survey No.122 has been encroached by the private respondents including the writ petitioner. In these circumstances, the fourth respondent issued impugned order dated 13.01.2020 under Form-III of the Tamil Nadu Protection of Tanks and Eviction of the Encroachment Act, 2007 for the removal of encroachment.

4. When the authorities found that the paver blocks as well as asbestos sheets were put up by the petitioner on the tank bund, the same cannot be allowed to continue in the water body.

5. The learned Government Advocate appearing for the respondents submitted that the petitioner was also issued with Form-II notice and Form-III notice has been issued only following the Rules prescribed under the Act.

6. The learned Counsel appearing for the petitioner submitted that the petitioner had laid the paver block road only to facilitate the villagers.

7. On a perusal of the photographs enclosed in the typed set of papers, it is clear that paver block road was laid by the



petitioner only to facilitate him and for the public. Even if it is laid for the use of the public, the same cannot be done on a tank bund by the petitioner. In such view of the matter, we do not find any error or infirmity in the order passed by the fourth respondent. The Writ Petition is devoid of merits and the same is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The District Collector,
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Ilaiyankudi, Sivagangai District.

+1 CC to M/s.D.SENTHIL, Advocate (SR-3304[F] dated 28/01/2020)

+1 CC to M/s.SPL.GP (SR-3347[F] dated 28/01/2020)

W.P (MD)No.1539 of 2020

27.01.2020

SMA /11/02/2020/3P/7C