



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.11114 of 2020

M/s.Hotel Mayfiled (P) Ltd.,
Through it's Managing Director R.M.S. Ramasamy,
S/o.Shanmugam Chettiyar,
Plot No.252, K.K. Nagar,
Madurai - 625 020.

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

3.The Tahsildar,
Kodaikanal,
Dindigul District.

4.Alphonse

5.Yesuraja

6.Balaji

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents 1 to 3 to take appropriate action against the Respondents 4 to 6 for their encroachments in T.S.No.33 in Ward-D, Block No.21, Kodaikanal Town, on the basis of the petitioner's representation given to the Respondents 1 to 3 dated 02.06.2020.

For Petitioner : Mr.I.Sam Jegan

For Respondents 1 & 3 : Mr.K.P.Krishnadoss
Special Government Pleader

For 2nd Respondent : Mr.T.S.Mohammed Mohideen
Standing Counsel

**O R D E R**

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

The petitioner is the Managing Director of the petitioner Hotel and they have purchased lands having an extent of 81 1/2 cents and 7.41 cents respectively in T.S.Nos.32 and 12, Block No.21, Ward No.D, Kodaikanal Town, Dindigul District and adjacent to Municipal Road, which is on the Northern of their land, there exists a State Highway Road, namely, Laws Ghat Road in Block No.27, T.S.No.1. It is the case of the petitioner that Laws Ghat Road and the Municipal Road are the main ingress and egress to their land to have direct access to Highways and respondents 4 to 6 have encroached the Municipal Road, Highways Road and a portion of their land in T.S.No.32 and 12 by way of cultivating banana trees and also putting up a wholly unauthorised superstructure and the representation submitted in this regard on 02.06.2020, failed to invoke any action and hence, he came forward to file this Writ Petition.

2.The learned counsel for the petitioner has drawn the attention of this Court to the memo of the third respondent dated 03.09.2019, in Na.Ka.No.1638/2018/Aa1 and would submit that there is an encroachment on the lands owned by the petitioner also, for which, the petitioner has also filed a civil suit and the same is pending.

3.The learned counsel for the petitioner has also drawn the attention of this Court to the counter affidavit filed by the second respondent in W.P.(MD) No.186 of 2020 and would submit that despite encroachments have been noted on the public road, no steps have been taken to remove the same and prays for appropriate orders.

4.Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the respondents 1 and 3 and Mr.T.S.Mohamed Mohideen, learned Standing Counsel for the second respondent would submit that in the light of present COVID - 19 Lockdown, steps to remove the encroachments are kept in abeyance and depending upon the further directions of this Court immediate, necessary and proper steps would be taken in accordance with law to cause removal of the encroachments.

5.This Court considered the rival submissions and perused the materials placed on record.

6.It is relevant to extract paragraphs 3 to 6 of the counter affidavit filed by the second respondent on 28.01.2020 in W.P.(MD) No.186 of 2020:

"3.On 22.01.2020 the Kodaikanal Municipality through the proceedings Na.Ka.No.3310/2018/F1 has issued notice on the 6, 7 and 8th respondent here in, under sec. 182(1),



362 of Tamilnadu District Municipalities Act, 1920. The respondents 6 to 8 have encroached a road located in town survey no.33, Block No.21, survey ward D in Kodaikanal. In the encroached portion a building is constructed measuring 74.00 square metre, and other portions have been fenced illegally. The encroachments have to be removed and the road has to be restored.

4.It is true that earlier writ petition has been filed by the petitioner in W.P.(MD) No. 6368 of 2019 but Kodaikanal Municipality was not made as party in the writ petition. The prayer was against Thasildar, Kodaikanal and Assistant Engineer TANGEDCO, Kodaikanal.

5.The 4th respondent here in has also admitted the encroachment made in the lands T.S.No.12, 32, 33 in Ward D, Block No.21 and T.S.No.1 in Ward D, Block No.27. The encroachment is as here under as per tasildar report:-

1. Kodaikanal Municipal Road:-
Ward D, Block 21, T.S.No.33.
2. High Ways Land:-
Ward D, Block 27, T.S.No.1.
3. The Petitioner Land:-
Ward D, Block, T.S.No. 21 and 32.

6. In respect of encroachment made in Kodaikanal Municipal Road, the Municipality had issued notice. The petitioner has to file civil suit for recovery of possession in respect of encroachment made on his land by 6 to 8 respondents."

7.This Court, taking into consideration of the above, directs the second respondent to adhere to due process of law and the principles of natural justice and cause removal of the encroachments stated in the above cited counter affidavit and complete the said exercise within a period of 12 (twelve) weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner, private respondents as well as to any other persons concerned.

8.The Writ Petition stands disposed of accordingly. However, in the circumstances of the case, there shall be no order as to the costs.



Call on 08.12.2020 for filing status report by the second respondent with supporting documents and photographs.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

To

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,Dindigul District.
- 3.The Tahsildar,
Kodaikanal,
Dindigul District.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-17176[F] dated 16/09/2020)

+1 CC to M/s.GP (SR-17263[F] dated 17/09/2020)

W.P.(MD)No.11114 of 2020

15.09.2020

AP(22/09/2020) 4P 6C