



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.11180 of 2020
and W.M.P. (MD) No.9762 of 2020**

Subramani

... Petitioner

Vs.

- 1.The District Collector,
Tiruchirapalli District,
Tiruchirapalli.
- 2.The Tahsildar,
Taluk Office,
Manapparai,
Tiruchirapalli District.
- 3.The Deputy Registrar of Co-operative Societies,
Tiruchirapalli.
- 4.The Special Officer/President,
M.M.349, Mondipatti Primary Agricultural
Co-operative Credit Society,
Mondipatti, Manapparai Taluk,
Tiruchirapalli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 3 and 4 not to construct the proposed new office building of M.M.349, Mondipatti Primary Agricultural Co-operative Credit Society in Survey No.345/44 of Mondipatti Village, Manapparai Taluk, Tiruchirapalli District by obstructing the 15 feet width east to west pathway at Mondipatti Village, Manapparai Taluk, Tiruchirapalli District based on the representation of the village people dated 12.08.2020 given to the 1st respondent and to the 3rd respondent.

For Petitioner : Mr.T.M.Madasamy

For Respondents 1 to 3: Mr.R.Murugan
Additional Government Pleader

* * * * *



O R D E R

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

The writ Petition, styled as Public Interest Litigation, is filed to forbear the fourth respondent from putting up construction upon a vacant space located in front of their office and according to the petitioner, the representation dated 12.08.2020, submitted in this regard failed to invoke any kind of response and hence, the Writ Petition.

2. Heard Mr. T. M. Madasamy, learned counsel for the petitioner and Mr. R. Murugan, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 3.

3. The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the land in S.No.345/44, Mondipatti Village, Manapparai Taluk, Tiruchirapalli District, belongs to the fourth respondent society and a decision has been taken to demolish the old construction and to put a new construction and there is sufficient space for ingress and egress for the public and the fourth respondent cannot be prevented from putting up authorised construction in its own land.

4. It is the further submission of the learned Additional Government Pleader that admittedly, there are encroachments upon the public pathway and if the encroachments are removed, there can be free access and steps are also underway to cause removal of encroachment upon the public pathway by following due process of law.

5. This Court considered the rival submissions and also perused the materials placed before this Court.

6. A perusal of the affidavit filed in support of the writ petition as well as the typed set of documents would disclose that the petitioner did not undertake due diligence before filing this Writ Petition and from the submissions of the learned Additional Government Pleader appearing for the respondents 1 to 3, it appears the land in S.No.345/44, Mondipatti Village, Manapparai Taluk, Tiruchirapalli District, belongs to the fourth respondent and being the owner of the land they are entitled to put any authorised construction in furtherance of their activities and in the considered opinion of this Court, the same cannot be prevented as long as they put up construction within their land.



7.This Court also taken note of the submission made by the learned Additional Government Pleader that whatever be the encroachment in the public pathway, adjacent to the said land, would be removed by following due process of law and by adhering to the principles of natural justice and the said submission is placed on record.

8.In the result, the Writ Petition is dismissed and the second respondent is directed to take immediate, necessary and proper steps to cause survey and inspection of the public road adjacent to S.No.345/44, Mondipatti Village, Manapparai Taluk, Tiruchirapalli District, and depending upon the result of the same, shall take immediate, necessary and proper steps by following due process of law and also by adhering to the principles of natural justice and remove encroachments as expeditiously as possible and preferably within 12 (Twelve) weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as the encroachers and the concerned person, if any. Consequently, connected Writ Miscellaneous Petition is also dismissed. However, in the circumstances of the case, there shall be no order as to the costs.

Sd/-

Assistant Registrar(Writs)

// 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,
Tiruchirapalli District,
Tiruchirapalli.

2.The Tahsildar, Taluk Office,
Manapparai, Tiruchirapalli District.



3.The Deputy Registrar of Co-operative Societies,
Tiruchirapalli.

+1 CC to M/s.GP (SR-17252[F] dated 17/09/2020)

W.P. (MD) No.11180 of 2020
and W.M.P. (MD) No.9762 of 2020
15.09.2020

SJ(CO)
TR(23.09.2020) 4P 5C