



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.10.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD) No.6506 of 2018

W.Jeba Kumar

.. Petitioner

Vs

1. The District Collector,
Tuticorin District. Tuticorin.

2. The Commissioner,
Tuticorin Corporation, Tuticorin.

3. Prem Vetri

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the 1st and 2nd respondents to remove the encroachment made over the 30 feet public road by blocking the entire road which is the connecting road for Vetrivelpuram and Krishnarayapuram situated in Ward No.41, Block No.49-A, in Survey No.5845/11 based on the petitioner's representation dated 29.11.2017, within the period stipulated by this Court.

For Petitioner

: Mr.Ananth C.Rajesh

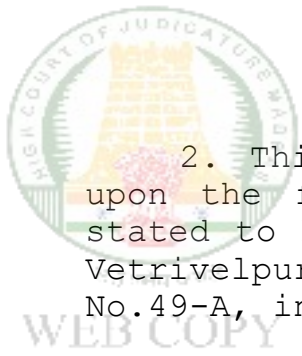
For respondents

: Mr.V.R.Shanmuganathan,
Special Govt.Pleader, for R1
Mr.S.Saji Bino for R2
Mr.G.Prabhu Rajadurai for R3

ORDER

[Order of the Court was made by
The Hon'ble Chief Justice]

Heard Mr.Ananth C.Rajesh, learned Counsel for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader for the first respondent, Mr.S.Saji Bino, learned Standing Counsel for the second respondent and Mr.G.Prabhu Rajadurai, learned Counsel for the third respondent.



2. This writ petition has been filed for a Mandamus, calling upon the first and second respondents to remove a compound wall stated to be existing over the 30 feet wide public road connecting Vetrivelpuram and Krishnarayapuram situated in Ward No.41, Block No.49-A, in Survey No.5845/11.

3. The prayer is that in spite of representation having been filed on 29.11.2017, a copy whereof has been filed on record, no further action has been taken.

4. The background in which this plea has been raised is that there were certain houses encroaching upon the said area and earlier W.P(MD).No.24304 of 2016 was filed and that was disposed of on 19.12.2016. The compliance of the said order was not made, as a result, Contempt Petition(MD). No.999 of 2017 was filed and in the said Contempt Petition, an affidavit was filed on behalf of the Commissioner of Corporation as well as the District Collector, Tuticorin, that the encroachments have been removed. The contempt petition was accordingly closed vide order dated 28.08.2017. The petitioner contends that the said contempt petition had been filed by one S.Sudharani.

5.The petitioner made a fresh representation in his personal capacity before the Commissioner that even though the houses that were an encroachment have been removed, the alleged compound wall, which is also an encroached construction put up by the third respondent, has not been removed.

6. In the above circumstances, even though this is a continuity of the same cause of action, yet since a fresh representation has been moved before the Commissioner, Tuticorin Corporation, we direct that the petitioner may approach the Commissioner, Tuticorin Corporation and we leave it open to the Commissioner to take appropriate action in accordance with the provisions of Tamil Nadu Municipal Corporation Act or such other law that may be applicable to the controversy after putting to notice the concerned individuals, but, only after examining the correct status of the allegations.

7. This writ petition is disposed of with the above observations. No costs.

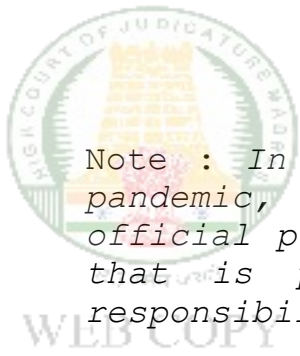
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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:

The District Collector,
Tuticorin District.
Tuticorin.

+1 CC to Mr.S.SAJI BINO, Advocate SR-20263.
+1 CC to the SPL GP SR-20473.

W.P. (MD) No.6506 of 2018
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SE (CO)
CS (28.10.2020) 3P 4C