



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.(MD) No.9361 of 2021

and

W.M.P.(MD) Nos.7074 and 8730 of 2021

Meenakshi Sundaram

... Petitioner

Vs.

1.The District Collector,
Sivagangai District.

2.The Commissioner,
Sivagangai Municipality,
Sivagangai.

3.S.Manoharan

... Respondents

(R3 impleaded vide order of Court
dated 16.07.2021 made in W.M.P.
(MD) No.8803 of 2021 by TSSJ &
SAIJ)

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents from removing the water storage tank, electric motor pump set situated in the Dharmar Kovil Street in Sivagangai.

For Petitioner

: Mr.T.R.Jeyapalam

For Respondent No.1

: Mr.A.K.Manickam

Standing Counsel for Government

For Respondent No.2

: Mr.J.Lawrance

For Respondent No.3

: Mr.N.Tamilmani

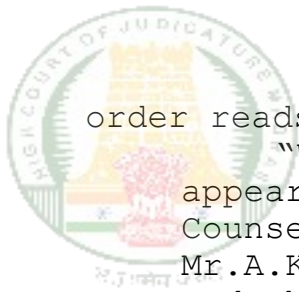
O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.T.R.Jeyapalam, learned counsel appearing for the petitioner, Mr.A.K.Manickam, learned Standing Counsel for Government, appearing for respondent No.1, Mr.J.Lawrence, learned counsel appearing for respondent No.2 and Mr.N.Tamilmani, learned counsel for respondent No.3.

2.This Writ Petition has been filed to forbear the respondents from removing the water storage tank, electric motor pump set situated in the Dharmar Kovil Street in Sivagangai.

3.The relief sought for cannot be granted in the light of the decision in W.M.P.(MD) No.9137 of 2021, dated 12.07.2021. The said



order reads as follows:

"We have heard Mr.J.Barathan, learned Counsel appearing for the petitioner, Mr.J.Lawrence, learned Counsel appearing for the first respondent and Mr.A.K.Manickam, learned Counsel appearing for the second and third respondents.

2.This petition has been filed to grant leave to file review application to review the order and direction in W.P.[MD]No.8076 of 2021 dated 20.04.2021.

3. In our considered view, two persons who are living in the locality are fighting over a water tank which are catering to the need of the local body. Admittedly, a pedestal constructed in the road margin and the photograph itself shows that there is a protrusion in the road / pathway. Taking note of the grievance, this Court had directed the municipality to take appropriate action. Now, the petitioner herein seeks to advance a case that the attempt of the first respondent / writ petitioner was not *bonafide*.

4.Even assuming the first respondent / writ petitioner had certain other personal agenda behind the litigation, when a structure has been put up either by the private individual or by the local body on a road margin, the same to be relocated. Merely because the water tank was located about 30 years back can never be a reason to justify the encroachment. Therefore, we find that at the instance of the petitioner herein or the first respondent / writ petitioner, we are not inclined to issue any further directions, but we direct the Municipality to proceed in accordance with law. It is made clear that the water tank shall be removed only after a new tank is located in an unobjectionable place. This direction be strictly complied with by the respondent municipality.

5.Accordingly, this petition is dismissed and the Review Application is rejected in the SR stage itself. However, there shall be no order as to costs."

4.Following the same, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

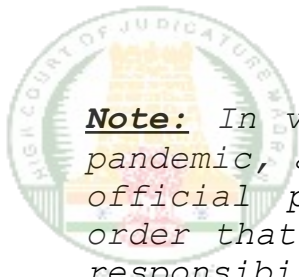
Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

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.

WEB COPY

To
1.The District Collector,
Sivagangai District,
Sivagangai.

+1 CC to MR.T.R.JEYAPALAM, Advocate (SR-23092[F] dated 19/07/2021)

+1 CC to MR.N.TAMILMANI, Advocate (SR-23103[F] dated 19/07/2021)

+1 CC to MR.J.LAWRANCE, Advocate (SR-23277[F] dated 20/07/2021)

+1 CC to MR.GP (SR-23338[F] dated 20/07/2021)

W.P. (MD) No.9361 of 2021

16.07.2021

MGJ(05.08.2021) 3P 6C