



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.M.P.[MD]No.9137 of 2021

in

Rev.Aplc.W[MD]No.SR31634 of 2021

Meenakshi Sundaram

... Petitioner/Applicant

Vs.

1.S.Manoharan

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Commissioner,
Sivagangai Municipality,
Sivagangai,
Sivagangai District.

... Respondents/Respondents

PRAYER in W.M.P.[MD]No.9137 of 2021: Petition filed under Section 151 of the Code of Civil Procedure, praying to grant leave to the petitioner / applicant to file the Review Application challenging the order dated 20.04.2021 in W.P.[MD]No.8076 of 2021.

PRAYER in Rev.Aplc.W[MD]No.SR31634 of 2021: Review Application filed under Section 114 and Order 47 Rule (1) of C.P.C., praying to review and re-call the order dated 20.04.2021 passed in W.P.[MD]No.8076 of 2021.

Prayer in WP(MD). 8076/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the respondents to remove the obstructions made in Dharmar Koil Street in Sivagangai Old Survey No.167 , T.S.No.44 and restore 22-1/2 ft Road within the time fixed by this Honble Court and pass such further or other orders as this Honble Court deems fit and proper in the circumstances of the above case and thus render justice.

For Petitioner : Mr.J.Barathan
For Respondent No.1 : Mr.J.Lawarance
For Respondent Nos.2 & 3 :Mr.A.K.Manickam

Standing Counsel for Government



O R D E R

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

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.

Sd/-

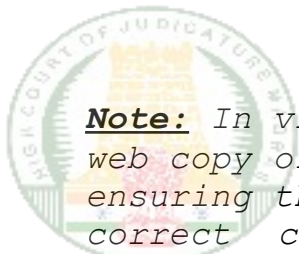
Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR



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 Commissioner,
Sivagangai Municipality,
Sivagangai,
Sivagangai District.

+1CC M/S. J. LAWRANCE, ADVOCATE, SR. NO. 22223/21

+1CC M/S. T.R. JEYAPALAM, ADVOCATE SR. NO.22472/21

+1CC SPL. GP. SR. NO.22328/21

W.M.P. [MD]No.9137 of 2021

in

Rev.Aplc[MD]No.SR31634 of 2021

12.07.2021

MGJ(26.07.2021) 3P 5C