

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|               |            |
|---------------|------------|
| Reserved on   | 01.09.2022 |
| Pronounced on | 11.10.2022 |

CORAM

**THE HON'BLE Mr.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.14718 OF 2022**

R.S.Sivaram

... Petitioner

-Vs.-

- 1.The Inspector of Panchayat,  
District Collector,  
Collectorate, Madurai.
- 2.The Assistant Director of Panchayat,  
Madurai Zone, Madurai.
- 3.The Block Development Officer,  
Madurai East,  
Panchayat Union Office,  
Madurai.
- 4.The Panchayat President,  
Thirumohur Village Panchayat,  
Thirumohur, Madurai 625 107.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India  
praying to issue a Writ of Mandamus to direct the 1st respondent to take  
action against the 4<sup>th</sup> respondent for his illegal acts together with a

direction to pay damages and compensation to the petitioner as determined by this Hon'ble Court based on the petitioner's representation dated 19.04.2022.

|                |                                                                                                                                              |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| For Petitioner | :Mr.Aravindan.R                                                                                                                              |
| For Respondent | :Mr.Veerakathiravan,<br>for Additional Government Pleader,<br>for R1 and R2<br>Mr.C.Satheesh,<br>Government Advocate, for R3 and R4<br>***** |

## **ORDER**

Heard the learned counsel on either side.

2. The writ petitioner is a practicing lawyer. He purchased the petition mentioned plot vide sale deed dated 15.04.2019. The petitioner thereafter put up a building after getting approval. There is no dispute that the plot was a part of an unapproved layout. The petitioner alleges harassment at the hands of the 4<sup>th</sup> respondent. While several allegations have been made, two are primary:

(a) Demolition of the compound wall on 26.03.2022.

(b) Semi construction of a drainage immediately outside the petitioner's house leading to stagnation of drainage water.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4. The stand of the respondent is that the writ petitioner was obliged to surrender the pathway portion in favour of the local body and that the compound wall was put up by committing encroachment. Since the property was located near the High Court, I visited the spot in the presence of the learned Additional Advocate General as well as the writ petitioner. The President of the local body was also present. The Panchayat President admitted that before carrying out the demolition, he did not give any notice to the writ petitioner. However, he insisted that the compound wall had come up on the path way portion. He also undertook to complete the drainage works as expeditiously as possible, so that the drainage water does not stagnate in front of the writ petitioner's house. However, he insisted that the writ petitioner must execute the gift deed in favour of the local body in respect of the pathway

portion.

5. After considering the materials on records and in the light of what I saw during the spot inspection and undertaking given by the Panchayat President, this writ petition is disposed of with the following directions:

(a) the respondents 3 and 4 are directed to expedite the drainage works on the Northern side of the writ petitioner's house. The 4<sup>th</sup> respondent will ensure that the gradient of the drainage is in such a way that there is a free flow of water and that it does not stagnate in front of the writ petitioner's house;

(b) The writ petitioner will be called upon to execute the sale deed only when the respondents are able to ensure the formation of 20 feet North-South road on the Eastern side. From what I saw on ground, there are too many encroachments and such a road can never come to be formed. In the event of formation of such road, writ petitioner has to execute the gift deed in favour of the local body and no demand for execution of gift deed will be made till then.

(c) The demolition of the writ petitioner's compound wall was clearly illegal. Without issuing notice, such demolition activity could not have been carried out. However, the 4<sup>th</sup> respondent was not impelled by any malifide motive. In order to make good the same, the 4<sup>th</sup> respondent is directed to redress all the other issues raised by the writ petitioner as sought for by him. This shall be more in the nature of a continuing Mandamus.

6. The writ petition is disposed of accordingly. There shall be no order as to costs.

**11.10.2022**

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa/ep

To

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Thirumohur, Madurai 625 107.

**G.R.SWAMINATHAN.J.,**

nsa/skm

**Pre-delivery order made in**  
**W.P.(MD)No.14718 OF 2022**

**11.10.2022**