



WMP(MD) No.15704 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Seventeenth day of August Two Thousand and
Twenty Three

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR
and

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

WMP(MD) No.15704 of 2023

IN

WP(MD) No.15734 of 2023

1 M. JEYAKUMAR

2 V. DHANALAKSHMI

... PETITIONERS/
RESPONDENTS 9 & 10

Vs

1 JAYAKUMAR .T

2 C. MERCY MARGRET

3 NIRMALA.T

4 THULASI.B

5 KALAISELVI.R

6 JEGADEESH.J

7 SOUNDARARAJAN.S



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8 B. SAM SALAMON PREMSINGH

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9 A. SEKARAN

...RESPONDENTS 1 TO 9/PETITIONERS

10 THE DISTRICT COLLECTOR
MADURAI,
MADURAI DISTRICT.

11 THE CORPORATION COMMISSIONER,
MADURAI CORPORATION,
MADURAI -625 020.

12 THE ASSISTANT CORPORATION COMMISSIONER,,
MADURAI CORPORATION,
MADURAI -625 020.

13 THE TOWN-PLANNING OFFICER,
MADURAI CORPORATION,
MADURAI - 625 020.

14 THE EXECUTIVE ENGINEER,
TAMIL NADU HOUSING BOARD -MADURAI HOUSING UNIT,
TNHB OFFICE COMPLEX,
ELLIS NAGAR,
MADURAI - 625 016.

15 THE TAHSILDAR,
MADURAI NORTH,
TALUK OFFICE MADURAI (NORTH),
ALWARPURAM, MADURAI -625 020.

16 THE SUB-REGISTRAR,
MADURAI NORTH,
SUB-REGISTRAR OFFICE,
VILANGUDI, MADURAI - 625 018.



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17 THE VILLAGE ADMINISTRATIVE OFFICER,,
VILANGUDI BIT - I,
VAO OFFICE,
THATHANERI, MADURAI - 625 018.

... RESPONDENTS 10 TO 17/
RESPONDENTS 1 TO 8

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to recall the order dated 03.07.2023 passed in WP(MD).No. 15734 of 2023 and thus render justice.

Prayer in WP(MD). 15734/ 2023 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of MANDAMUS directing the respondents 1 to 6 to remove the illegal encroachment in the Tamil Nadu Housing Board- Madurai Housing Unit made by 9th and 10th respondents for an extent of 64386 sq.feet which was allotted to park under the Neighbourhood Scheme Sector -IV for the benefit allottees of TNHB Colony, Railar Nagar, Madurai - 625 018 by considering the representations of the Petitioner dated 07-03-2023 and 18-03-2023 respectively and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.J.BARATHAN, Advocate for the petitioner and of M/S.K.C.RAMALINGAM, Advocate on behalf of the Respondent No.1 and MR.R.SIVAKUMAR, Advocate for the Respondent No.14 and M/S.P.THILAK KUMAR, Government Pleader for the Respondent No.10, Respondents 15 to 17 and MR.S.VINAYAK, Standing Counsel for Respondents 11 to 12, the court made the following order:-

(Order of the Court was made by S.S.SUNDAR, J.)

This petition is filed to recall the order dated 03.07.2023 passed in W.P(MD) No.15734 of 2023.



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2. The writ petition was filed by the resident of a lay out on the allegation that a common area which is reserved for park is now converted for house site. It is further stated that some private individuals including the petitioners have encroached the common area and putting up construction. In that view, this Court even without issuing notice to the petitioners herein, passed an order directing the official respondents to stop the construction and remove the encroachments after giving due notice and opportunity to all parties concerned by following due process of law. There were further directions which would indicate that the order would certainly affect the rights of individuals, if the case of the petitioners have to be accepted.

3. According to the petitioners, the acquisition proceeding in respect of the petitioners' land has been quashed by this Court. Referring to the Judgment of this Court, wherein, notification under Section 6 of the Land Acquisition Act was quashed by this Court. The learned counsel appearing for the petitioners states that the notification under Section 4(1) was also lapsed as the acquisition was not completed by subsequent Section 6 declaration as directed by this Court. If that is so, the lay out plan which is shown by the petitioners cannot be accepted.



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4. It is seen that several area which are reserved for public purpose in the layout do not belong to the housing board.

5. In that view of the matter, we are convinced that the petitioners are having substantial right to defend their case in the writ petition. Therefore, the order is recalled. However, the petitioners shall file counter affidavit within a week.

6. Post the Writ Petition for final hearing on 31.08.2023. In the meanwhile, the housing board is required to produce the files and file a counter.

sd/-
17/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

sjj

TO

1 THE DISTRICT COLLECTOR
MADURAI,
MADURAI DISTRICT.

<https://www.mhc.tn.gov.in/judis>



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MADURAI CORPORATION,
MADURAI -625 020.

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MADURAI -625 020.

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MADURAI CORPORATION,
MADURAI - 625 020.

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TAMIL NADU HOUSING BOARD -MADURAI HOUSING UNIT,
TNHB OFFICE COMPLEX,
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VAO OFFICE,
THATHANERI,
MADURAI - 625 018.



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+1. C.C. to T.R. JEYAPALAM Advocate SR.No.39334

ORDER
IN
WMP(MD) No.15704 of 2023
IN
WP(MD) No.15734 of 2023
Date :17/08/2023

RK/VRS (22/08/2023) 7P / 10C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023