



W.P(MD)No.23193 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.23193 of 2023

S.Sankar

... Petitioner

Vs.

- 1.The Executive Director (Municipality),
75, Municipal Executive Building,
Santhom Highways,
M.R.C.Nagar,
Raja Annamalaipuram,
Chennai – 28.
- 2.The District Collector,
Sivagangai District,
Sivagangai.
- 3.The Tahsildar,
Manamadurai Taluk Office,
Manamadurai, Sivagangai District.
- 4.The Municipality Commissioner,
Office of Manamadurai Municipality,
Manamadurai, Sivagangai District.



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5. The President,
Office of Manamadurai Municipality,
Manamadurai, Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the 1, 4, 5 respondents to stop the construction of Road in Ward No.17 and 19 situated at Vasantha Nagar, Muthunagar, Manamadurai Town, Manamadurai Taluk, Sivagangai District and clear way of water body based on the petitioner's representation dated 28.08.2023.

For Petitioner : Mr.S.Muthupandi

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 to R.3

Mr.A.Kathiravan for R.4 & R.5

ORDER

Heard both sides.

2. The petitioner wants this Court to forbear the respondents from constructing any road in Ward Nos.17 and 19 in Vasantha Nagar, Muthunagar, Manamadurai Town / Taluk. We called upon the petitioner to specify the survey numbers. The learned counsel submitted that the petitioner is concerned with Survey Nos.268 and 269.



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3. At this stage, the learned Additional Government Pleader and the learned counsel appearing for the Manamadurai Municipality submitted that the petitioner had earlier filed W.P(MD)No.17897 of 2020. Our attention was drawn to the prayer portion. It specifically deals with the Survey Nos. 268 and 269 also. The writ petition was dismissed in the following terms:

“2.It is seen that, in the writ petition, the petitioner has not impleaded the alleged encroachers. However, coming to know about the pendency of this public interest litigation, R11 to R17 have filed impleading petitions to implead themselves as respondents in order to effectively contest the matter. The District Collector has filed a detailed status report on 13.08.2021, wherein, he has stated that the lands in question were taken over by the Government under the Tamil Nadu Estate Abolition Act, 1948 and after due enquiry Ryotwari pattas were issued to various persons from 1960 to 1984. Respondents 11 to 17 are also holders of such pattas, which have been issued to them or to their predecessors in interest decades back. Since the status report filed by the respondents shows that there are no encroachments in the survey numbers referred to in the prayer of the writ petition, the petitioner filed an amendment application for impleading new survey numbers in the prayer.



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3. *In our considered opinion, a public interest litigation cannot be used for conducting a fishing enquiry and the petitioner cannot build up a case based on the pleading of the other side. Pattas that have been issued to various persons decades back cannot be cancelled in a public interest litigation. In such view of the matter, we find no merit in the writ petition and the same is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.”*

We are of the view that an issue that had already been decided is sought to be reagitated. No case for interference has been made out.

4. This writ petition is dismissed. There shall be no order as to costs.

[G.R.S., J.] [B.P., J.]
25.09.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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