



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.28870 of 2022

and

W.M.P(MD)No.5532 of 2022

M.Muthaiyan

... Petitioner

v.

1.The District Collector,
Trichy District.

2.The Commissioner,
Trichy City Municipal Corporation,
No.58, Bharathidasan Salai,
Opposite to Champion School,
Cantonment, Trichy – 620 001.

3.The Assistant Commissioner,
K.Abhishekapuram Division,
Trichy City Municipal Corporation,
EVR Road, Puthur, Trichy – 620 017.

4.The Executive Engineer,
Trichy City Municipal Corporation,
No.58, Bharathidasan Salai,
Opposite to Champion School,
Trichy – 620 001.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 2 to 4 not to make any coercive steps in S.No.191/26 at Piratiyur Town Panchayat, Edamalaipatti Pudhur, Trichy without following the due process of law in the light of the order passed in Suit O.S No.1540 of 1986 on the file of the District Munsif Court, Trichy dated 07.01.1997 by considering the petitioner's objection petition dated 24.11.2022.

For Petitioner : Mr.M.Jegatheesh Pandian

For Respondents : Mr.K.Balasubramani

Special Government Pleader for R1

Mr.R.Baskaran, Senior Counsel

for R2 to R4

ORDER

Heard both sides.

2.The petitioner wants this Court to forbear the respondents from carrying out any developmental work in Survey No.191/26 at Piratiyur Town Panchayat, Trichy. The petitioner places reliance on the decree dated 07.01.1997 in O.S No.1540 of 1986 on the file of the District Munsif Court, Trichy.



3.The stand of the respondents is that they are not contravening the decree passed by the civil court. In fact, survey was ordered to be made on the last occasion. But the survey results do not shed any light on the point. Since a project having public interest implication has been taken up, the writ court ought not to come in the way. It is admitted that at present execution proceedings are still pending. The concerned executing court will frame an issue as to whether the petition-mentioned project work is being carried in the suit property. The respondents will have to place all the relevant records including the correlating documents. An Advocate Commissioner can also be appointed by the executing court. If the executing court comes to a finding that the petition mentioned project works are being carried out in a portion of the suit schedule property, The petitioner will have to be paid compensation in the execution proceedings itself. I make it clear that I have not given any definite finding in favour of either of the parties.

4.This writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

20.11.2023

Index : Yes / No
Internet : Yes/ No
skm



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G.R.SWAMINATHAN, J.

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