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W.P. No.16570 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P. No.16570 of 2024

and

W.M.P.No.18180 of 2024

in

W.P.No.16570 of 2024

C.N.Raju

S/o.Late C.S.Neelakandan

.. Petitioner

Vs.

1. Modakurichi Town Panchayat
Represented by its President
Modakurichi, Erode
Tamil Nadu.
2. Modakurichi Panchayat Union
Represented by its Commissioner
Modakurichi, Erode
Tamil Nadu.
3. Modakurichi Municipality
Represented by its Executive Officer
Erode, Tamil Nadu.
4. Nanjai Uthukuli Village Panchayat
Represented by its President
Muthur Main Road
Nanjai Uthukuli Post



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Erode - 638 104.

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5. Regional Transport Officer
Erode East RTO
Karur Bypass Road
Erode, Tamil Nadu.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondents herein to remove the encroachment made by the 5th respondent and restore and maintain the 30 feet road connecting DCP Layout DTCP No.998 of 1991 with Karur Bypass Road and situated at R.S.No.150/2 Part, Nanjai Uthukuli Village, Erode Taluk, Erode District (Then Periyar District) within the then Modakurichi Panchayat Union now with Erode Corporation for public usage.

For Petitioner	:	Mr.S.Ganesh
For Respondents	:	Mr.D.Gopal
		Government Advocate
		for R1 to R4
		Mr.P.Balathandayutham
		Special Government Pleader
		for R5

ORDER

(Order of the Court was made by **M.Sundar, J.**)

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} pertains to 'land situate in R.S.No.150/2 Part, Nanjai Uthukuli



W.P.No.16570 of 2024

Village, Erode Taluk, Erode District' {hereinafter 'said land' for the sake of brevity}.

2. Mr.S.Ganesh, learned counsel of M/s.G.Vijay Anand Associates (Law Firm) for the writ petitioner, who is before us submits that there is encroachment by R5 (Regional Transport Officer, Erode East RTO, Karur Bypass Road, Erode District) in said land as according to writ petitioner, said land is a 30 feet road connecting a layout (said to be approved) and Karur Bypass road.

3. A careful perusal of case file brings to light that writ petitioner has filed an earlier writ petition {W.P.No.29472 of 2023} with the same prayer. To be noted, prayers in W.P.No.29472 of 2023 and captioned WP are as follows:

Prayer in W.P.No.29472 of 2023:

'Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondent to remove encroachment made by the third respondent and restore and maintain the 30 feet road connecting DCTP Layout DTCP No.998 of 1991 with Karur Bye Pass Road and situated at R.S.No.150/2 Part, Nanjai Uthukuli Village, Erode Taluk, Erode District (Then Periyar District) within the then



Modakuriji Panchayat Union now with Erode Corporation, the second respondent for public usage.'

Prayer in captioned WP:

'For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction in the nature of writ of mandamus directing the respondents herein to remove the encroachment made by the 5th respondent and restore and maintain the 30 feet road connecting DCP Layout DTCP No.998 of 1991 with Karur Bypass Road and situated at R.S.No.150/2 Part, Nanjai Uthukuli Village, Erode Taluk, Erode District (Then Periyar District) within the then Modakurichi Panchayat Union now with Erode Corporation for public usage.'

4. Aforementioned earlier writ petition has been disposed of by another Hon'ble Division Bench in and by an order dated 11.10.2023 and a scanned reproduction of the order is as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.29472 of 2023

C.N.Raju Vs. Petitioner

1. The Collector
Erode District, Tamil Nadu.

2. Erode City Municipal Corporation
Rep. by its Commissioner
Erode City Municipal Corporation Office
New No.246, Old No.894
Brough Road, Erode 638 001, Tamil Nadu.

3. Regional Transport Officer
Erode East RTO
Karur Bye Pass Road
Erode, Tamil Nadu.

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondent to remove encroachment made by the third respondent and restore and maintain the 30 feet road connecting DCTP Layout DTCP No.998 of 1991 with Karur Bye Pass Road and situated at R.S.No.150/2 Part, Nanjal Uthukuli Village, Erode Taluk, Erode District (Then Periyar District) within the then Modakuriji Panchayat Union now with Erode Corporation, the second respondent for public usage.

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For the Petitioner : Mr.S.Ganesh
For G.Vijay Anand Associates

For the Respondents : Mrs.R.Anitha
Special Government Pleader
for Respondent-1

Mr.M.Rajamathivannan
for Respondent-2

ORDER
(Made by the Hon'ble Chief Justice)

We have heard Mr.S.Ganesh, learned counsel for the petitioner, Mrs.R.Anitha, learned Special Government Pleader for the first respondent and Mr.M.Rajamathivannan, learned counsel for the second respondent.

2. Learned counsel for the petitioner submits that the access road has been encroached by the third respondent Regional Transport Officer.

3. According to learned Special Government Pleader, the access road is in S.No.150/2 and the construction of Regional Transport Office

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S.Nos.151/1 and 151/2B.	
4. According to learned counsel for the Municipal Corporation, the said property is within the limits of the Panchayat Union. 5. It appears to be a case of disputed questions of fact. The petitioner may file a complaint/representation with the concerned Panchayat Union. If such a representation is made, the Panchayat Union shall consider the said representation on its own merits and take decision expeditiously, preferably within four months from the date of complaint/representation made by the petitioner. 6. The writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.No.29091 of 2023 is closed.	
(S.M.G., CJ.) (D.B.C., J.) 11.10.2023	
Index :	Yes/No
Neutral Citation :	Yes/No
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5. Learned counsel for writ petitioner submits that pursuant to the aforementioned earlier order (more particularly, paragraph No.5) of another Hon'ble Division Bench dated 11.10.2023, writ petitioner has sent a complaint / representation dated 14.10.2023 though only postal receipt has been placed before us but postal acknowledgment is not before us. When we wanted to know the date of receipt of complaint / representation dated 14.10.2023 by the addressee (to be noted, addressee is The President, Modakkurichi Town Panchayat, Modakkurichi, Erode, Tamil Nadu), learned counsel drew our attention to a communication dated 06.11.2023 bearing reference Na.Ka.No.420/2023 from Executive Officer, Modakurichi Municipality, Erode District to Commissioner, Panchayat Union, Modakurichi and submitted that 06.11.2023 communication says that lone addressee qua 14.10.2023 complaint / representation has received the same on 16.10.2023.

6. Writ petitioner has moved this Court by way of writ petition (captioned WP) with the very same prayer as would be evident from prayers extracted and reproduced supra. Therefore, it is for the writ petitioner to pursue the complaint / representation and if it is the case of writ petitioner that time frame set out in 11.10.2023 earlier order of



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another Hon'ble Division Bench has not been adhered to, writ petitioner should resort to a suitable recourse in law but we are of the view that another writ petition (captioned WP) with very same prayer is certainly not an appropriate recourse in law.

7. Learned counsel submits that the respondents in earlier writ petition and present captioned WP are different but that hardly matters as the writ petitioner by his own volition has chosen to file earlier writ petition, invite an order from this Court and give quietus to the same.

8. Ergo, the sequitur is, captioned WP does not pass muster in the Admission Board. Consequently, captioned WP is dismissed. As a further consequence, captioned Writ Miscellaneous Petition is also dismissed. We refrain from imposing costs.

(M.S.J.) (K.G.T.J.)
26.06.2024

Index:Yes
Neutral Citation: Yes
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W.P. No.16570 of 2024

M.SUNDAR.J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

mk

To

1. Modakurichi Town Panchayat
Represented by its President
Modakurichi, Erode
Tamil Nadu.
2. Modakurichi Panchayat Union
Represented by its Commissioner
Modakurichi, Erode
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