



W.P.(MD) No.1547 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.1547 of 2019

and

W.M.P.(MD)No.1318 of 2019

P.R.Ramesh

... Petitioner

-Vs-

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Commissioner,
Devakottai Municipality Office,
Sivagangai District.

3.P.Vasantha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent herein to take action based on the proceedings in Na.Ka.No.1253/2018/F1, dated 26.09.2018 and 17.12.2018 within a stipulated time.



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For Petitioner : Mr.M.Jegadeesh Pandian
For R1 : Mr.J.Ashok,
Additional Government Pleader
For R2 : Mr.Mohammed Imran

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

This Writ Petition is filed seeking for a direction to the 2nd respondent to take action based on the proceedings in Na.Ka.No.1253/2018/F1, dated 26.09.2018 and 17.12.2018 within a stipulated time.

2.According to the petitioner, the 3rd respondent has made an encroachment in the public pathway by planting some trees. Therefore, he made several representations to the 1st respondent, lastly on 16.07.2018. Based on the said representation, the 2nd respondent issued notice dated 26.09.2018 to the 3rd respondent under the provisions of the Tamil Nadu District Municipalities Act. Thereafter, since no action was forthcoming, he made another representation dated 10.12.2018 to the respondents, requesting them to take action based on the earlier communication dated 26.09.2018, for which, the 2nd respondent issued another



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notice to the 3rd respondent on 17.12.2018. Thereafter also, no action has been taken by the 2nd respondent. Hence, the petitioner is constrained to move the present Writ Petition.

3.Considering the facts and circumstances of the case, we are of the view that this kind of attitude on the part of the 2nd respondent for not taking appropriate action for removal of the encroachment made by the 3rd respondent is to be deprecated. Further, though this Writ Petition is of the year 2019, till date the 2nd respondent did not file counter affidavit. However, based on the materials available on record, we direct the 2nd respondent to take necessary action for removal of the encroachment made by the 3rd respondent after providing opportunity to all the parties concerned and complete the same by following due process of law as early as possible without any further delay. If it is brought to the notice of this Court that there is a delay on the part of the 2nd respondent, it will be viewed seriously by this Court. The District Collector, Sivagangai District / 1st respondent is directed to call for explanations from the 2nd respondent for non-filing of the counter for the past five years and thereafter, take necessary action against the 2nd respondent.



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4. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
29.02.2024

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

Yuva

To

1. The District Collector,
Sivagangai District, Sivagangai.
2. The Commissioner,
Devakottai Municipality Office,
Sivagangai District.



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AND

R.VIJAYAKUMAR, J.

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