



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Thursday, the Fifth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN

AND

The Hon`ble Mrs.Justice L. VICTORIA GOWRI

WMP(MD). No.16345 of 2020

IN

W.P.(MD)No.17656 of 2020

Rajalingam.S

... Petitioner/3rd Respondent

Vs

1. The Corporation Commissioner,
Madurai Corporation,
Madurai 2

2. The Assistant Commissioner,
Zone- 2,Madurai Corporation,
K.Pudur,Madurai City,
Madurai

...Respondents 1&2

3. Kamali Dinakaran

...3rd Respondent/Writ Petitioner

Prayer in WMP(MD). No.16345 of 2020:-

Writ Miscellaneous Petition Under Article 226 of Constitution of India to vacate
the interim direction dated 07.12.2020 in WP(MD).No.17656 of 2020.



Prayer in W.P.(MD)No.17656 of 2020:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of mandamus or any other writ or order in the nature of writ directing the respondents No.1 and 2 to remove the encroachments including the iron roofed shed and iron gate constructed by the respondent NO.3 in 20 feet public Corporation road situated at Ayyanar 2nd Street, K.K.Nagar, Zone No.2, Madurai City, Madurai District within a stipulated time that may be fixed by this Honble Court.

ORDER:- This Writ Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru M/s.Hentri Thiphagne, Advocate for the third Respondent and of Thiru.M/S. S.Vinayak For R1 & R2 and M/S.T.Arul, for S.Sukumar for the Petitioner, this Court made the following order:

[Order of the Court was made by R.SUBRAMANIAN, J.]

The petitioner seeks to vacate the interim order of the Hon'ble Division Bench dated 07.12.2020, by which, the Hon'ble Division Bench had directed the Corporation to remove the encroachment on an alleged public road situated in

Ayyanar 2nd Street, K.K. Nagar, Madurai.



2.The Hon'ble Division Bench after taking note of certain photographs that are placed before it, has directed the Corporation to conduct inspection after giving notice to the third respondent/petitioner herein and remove any encroachment that may be found on the road. The said order was passed on 07.12.2020. The Madurai City Municipal Corporation swung into action almost immediately and even before the order could be made ready, removed the structures put up by the petitioner herein within two days and addressed its counsel on 10.12.2020, to report the removal of encroachment to this Court. Claiming that the Corporation had not issued any notice to him and that the action of the Corporation is in violation of Section 258 of the Madurai City Municipal Corporation Act, 1971, the petitioner has sought for the recalling the order. Finding that the speed with which, the encroachment was removed, was supersonic and in violation of the directions of the Hon'ble Division Bench, we had required Mr.P.Subramanian, Assistant Executive Engineer (Planning), Zone - II, Madurai Corporation, to be present in Court today. When we queried the said Official as to whether he read the order of the Hon'ble Division Bench before taking the eviction proceedings, he fairly accepted that he had not read the order but he had gone by telephonic instructions of the counsel for the Corporation. If only all the Officials of the State Government as well as the Local Bodies emulate this Officer, this Court will be rid of Contempt Petitions, which consume at least 25% of the judicial time that we have. This does not mean that we are approving the action of the Officer concerned. He ought to have obtained the



copy of the order and thereafter, conducted an inspection after notice to the third respondent/petitioner herein and thereafter, taken action for removal of encroachment. It is clear that the Officer has acted in great haste with some other object in mind.

3.We are constrained to observe such haste exhibited by an official in a responsible position cannot at all be approved by this Court. We therefore, impose a fine of Rs.5,000/- on the officer as a token so that other officer do not emulate the haste exhibited by him. The fine shall be paid to the Women Advocates Association of Madurai Bench to be appropriated towards the expenses in maintaining the 'Creche', that is situated inside High Court Campus.

4.We also clarify that this imposition of fine will not have any effect on the service of the officer. As a consequence, we recall the order of the Hon'ble Division Bench dated 07.12.2020 and we had also directed the officer to restore the encroachment to its original position. It is stated that it has been done. Hence, this petition is allowed.

Sd/-

Assistant Registrar(CS III)

// True Copy //

/10/2024

Sub Assistant Registrar
(CS- I/ II / III / IV)



To

1. The Corporation Commissioner,
Madurai Corporation,
Madurai- 2.

2. The Assistant Commissioner,
Zone- 2, Madurai Corporation,
K.Pudur, Madurai City,
Madurai.

Copy to:

1. The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

2. The Officer in Charge,
Women Advocates Association of Madurai Bench,
Madurai.

ORDER DATED : 05/09/2024

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ORDER

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WMP(MD). No.16345 of 2020

IN

W.P.(MD)No.17656 of 2020

Giving direction and etc.

as stated within.

MGJ(18.10.2024) 5P 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17.07.2023