



Rev.Aplw.No.227/2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

Rev.Aplw.(MD).No.227/2023 & WMP (MD).No.23562/2023

Chtira

.. Petitioner / 6th Respondent

Vs.

- 1.P.S.Thangavel
- 2.The Principal Secretary
Government of Tamil Nadu
Department of Municipal Administration
Fort St George, Chennai 600 009.
- 3.The District Collector
office of the Collectorate
Trichy.
- 4.The Director
Town and Panchayat, Kuralagam
Chennai.
- 5.The Deputy Director
Town Panchayat, Trichy.



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6.The Executive Officer
O/o.The Town Panchayat
Pullambadi, Trichy District.

7.The Tahsildar
Lalgudi Taluk
Trichy District.

... Respondents

Prayer : Review Application filed under Special Original Jurisdiction to review the order dated 04.08.2022 passed in WP (MD).No.17386/2022 and dismiss the writ petition with exemplary cost.

For Petitioner	: Mr.A.V.Raja
For R1	: Mr.B.Balavijayan
For RR 2 to 7	: Mr.J.Ashok, AGP

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1)The present Review Application is filed by the review applicant as against the order passed in WP.(MD).No.17386/2022 dated 04.08.2022.

(2)This review application is wholly misconceived.

(3)The writ petitioner / 1st respondent has filed the writ petition in WP(MD).No.17386/2022 directing respondents 2 to 7 herein who are respondents 1 to 5 in the writ petition, to take appropriate action over the



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encroachment made by the review petitioner herein / 6th respondent in the writ petition, on the road portion that belongs to Municipality to an extent of 5.4 x 1.2m, in accordance with law.

(4) This Court vide order dated 04.08.2022, disposed of the writ petition with the following directions:-

8. Having regard to the admitted facts, this Court is inclined to dispose of this Writ Petition in the following directions:-

(i) The Tahsildar, Lalkudi Taluk, Trichy District - 7th respondent is directed to conduct survey with the assistance of the Surveyor after issuing notice to the petitioner as well as the sixth respondent.

(ii) If the Tahsildar finds that there is an encroachment by the 6th respondent, a report shall be submitted to the 5th respondent local body.

(iii) The 5th respondent, thereafter, shall issue notice as contemplated under Section 181 of the District Municipalities Act, 1920. In case the 5th respondent is unable to carryout eviction inspite of confirmation of encroachment by the 6th respondent, the Tahsildar, Lalgudi Taluk is directed to initiate proceedings for removal of encroachment under Tamil Nadu Land Encroachment Act, 1905.



(iv) It is made clear that the 6th respondent shall be put on notice, in other words proceedings either under the District Municipalities Act, 1920 or Tamil Nadu Land Encroachment Act, 1905 in accordance law can be commenced and completed only after issuing show cause notice under the statutory provisions and pass final orders only after considering the objections and representation of the 6th respondent, the alleged encroacher."

(5) Now this order is sought to be reviewed by the 6th respondent in the writ petition on the ground that the writ petitioner has filed the writ petition suppressing the fact that in respect of the same property and for the same cause, the writ petitioner had filed a suit in OS.No.325/2017 before the District Munsif Court, Lalgudi.

(6) This Court considered the averments in the plaint and the relief that is prayed for by the writ petitioner in the civil suit in OS.No.325/2017. The suit is for a declaration that the plaintiff is the absolute owner of the suit B schedule property and consequential permanent injunction restraining the defendant therein from interfering with the peaceful possession and enjoyment of the suit B Schedule property either by laying door way step



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or otherwise in any manner. The suit B Schedule property is described as a property which is measuring 1.6 x 18 feet in S.No.318/37 in Pullambadi South gramam, Lalgudi Taluk. The property is also described with reference to the plaint plan marked as ABCD.

(7) This Court finds that the cause of action in the suit and the relief prayed in the suit are entirely different from the relief prayed for in the writ petition where the allegation is that the review petitioner herein has encroached into the public pathway or road.

(8) This Court has only directed the official respondents to initiate action under the provisions of the Tamil Nadu Land Encroachment Act, after holding enquiry. In such circumstances, absolutely there is no merits in the review application where this Court is satisfied that there is no error apparent on the face of the record. The contention of the petitioner that the writ petitioner had suppressed material facts while getting an order before this Court, is not correct.

(9) Hence, the review application stands **dismissed**. Consequently, the interim order of status quo granted by this Court earlier on 21.12.2023



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stands vacated and the miscellaneous petition is closed.

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[S.S.S.R., J.] [S.S.Y., J.]
20.03.2024

AP

Internet : Yes

Neutral Citation : Yes / No

To

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