



W.P.(MD)No.28841 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH
COURT

RESERVED ON: 03.03.2023
PRONOUNCED ON: 12.06.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.28841 of 2022
and
W.M.P.(MD)No.22805 of 2022

Henri Tiphagne

... Petitioner

Vs.

1. The District Magistrate and District Collector,
Madurai,
Madurai – 625 020.
2. The Revenue Divisional Officer,
Madurai District,
Madurai-625 020.
3. The Tahsildar,
Madurai East Taluk,
Madurai District.
4. The Commissioner of Police,
Madurai City,
Madurai-625 002.



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5. The Commissioner of Corporation,
Madurai City Corporation,
Madurai-625 002.

6. The Deputy Commissioner of Police(Traffic),
Madurai City,
Madurai-625 002.

7. The District Officer,
Fire & Rescue Department,
District Collector Office Campus,
Madurai-625 020.

8. The Superintending Engineer,
Public Works Department,
Tallakulam,
Madurai-625 002.

9. Super Saravana Stores,
represented by its Managing Director,
Super Saravana Stores,
Melur Road, Mattuthavani,
Madurai-625 107.

10. Meenakshi Mission Hospital and Research Centre,
represented by its Manager,
Melur Road,
Uthangudi,
Madurai-625 107.

11. The Director,
Town and Country Planning,
Chennai.

... Respondents

(R.11 is suo motu impleaded vide
Court order dated 02.01.2023.)



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 8 to ensure the immediate removal of the public nuisance complained off in the complaint and till then the business enterprise is asked to keep the enterprise shut down temporarily or at least keep a few floors of the said building closed until the public nuisances complained off herein are attended to fully by considering the representations dated 12.12.2022 and 17.12.2022 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Karunanithi

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
for R.1 to R.4, R.6 and R.7
: Mr.S.Vinayak
for R.5
: Mr.C.Baskaran
Government
Advocate
for R.8
: Mr.J.Bharathan
for R.9
: Mr.S.Venkatesh
for R.10
: Mr.P.Thilak Kumar
Government
Pleader
for R.11



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ORDER

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The above Writ Petition has been filed seeking a Writ of Mandamus, directing the respondents 1 to 8 to ensure the immediate removal of the public nuisance complained of in the complaint and until the same is complied, the business enterprise is to be temporarily shut down or a few floors of the said building is to be closed, on considering the representations dated 12.12.2022 and 17.12.2022 within a stipulated time as fixed by this Court.

2. The petitioner is a practising Advocate before this Court having 39 years of standing and is actively involved in Human Rights Organization and its activities. Admittedly one M/s Rare SS Properties India Private Limited has constructed a commercial building in Uthangudi Village within the limits of Madurai Corporation and the said building started its commercial activities in the name and style of “Super Saravana Stores” from 05.12.2022. It is not in dispute that it is constructed with 10 floors. According to the petitioner, he has sent representations to the respondents on 12.12.2022 through e-mail complaining the public nuisances and the same was followed by sending



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representations through post on 17.12.2022. As there was no action, according to the petitioner, he was constrained to file the above writ petition.

3. The first respondent/District Magistrate, in his status report has admitted the receipt of the petitioner's representation dated 17.12.2022, vide speed post on 19.12.2022. It is evident from the records that the petitioner sent a petition under Section 133 Cr.P.C., to the District Magistrate – first respondent complaining about the public nuisances and seeking immediate and urgent steps for removal of the same and due to inaction, as alleged by the petitioner, he has come forward with the present Writ Petition seeking direction to the respondents 1 to 8 to ensure the immediate removal of the public nuisances complained of.

4. The learned Counsel for the ninth respondent, at the first instance, has disputed the very locus standi of the petitioner to file the above Writ Petition and also the very maintainability of the same. Further questions the very listing of the above matter before this Bench. The learned Counsel would contend that the petitioner can maintain any



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litigation only if he is personally aggrieved by any omission or commission by any of the respondents, and when there is no personal infringement of any right, the question of filing a writ petition does not arise and that the averments in the petitioner's affidavit would go to show that the petitioner had only canvassed a Public Interest Litigation and as such, the same can be placed before a Division Bench of this Court and not before this Bench.

5. According to the petitioner, he is living in Lake area, Uthangudi, Melur Road, admittedly situated behind the ninth respondent's buildings. In paragraph No.4 of the affidavit, the petitioner has specifically averred that Lake Area where he has been residing, has access at one point alone ie., the road from the Melur Road leading to Lake Area and TTC Nagar and that the above petition has been filed as he has been suffering personally along with all other residents in his area from the very recent gross public nuisances complained of.

6. It is the specific case of the petitioner that the said Lake Area houses consist large sections of people which includes very reputed



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businessmen, lawyers, doctors, police officers and people drawn from different professions and all of them including their families have to access the Melur Road to move anywhere they want and that the Lake Area is bounded on one side by the tank bund of the Vandiyur lake and alongside the Melur road runs a channel leading to a larger feeding channel that actually crosses the Melur road and that the channel running parallel to the Melur road had breached recently resulting in the flooding of the residential areas on both sides of the Melur road including Lake Area and the only bridge that leads across the channel at the entrance of the Lake Area had also been very badly damaged, as it was constructed in the late 1980s, that they had taken construction materials using huge carrier multi-tonne carrier vehicles by accessing their private land from a newly opened side entrance that they had created and thereby resulted in further weakening of the already weakened bridge that till today serves as the only entrance to Lake Area and TTC Colony inhabitants.

7. It is the specific contention of the petitioner that when the ninth respondent was making constructions and during the excavation works, they had illegally laid water pipes running across the only entrance to



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Lake Area so that the water from springs located inside such massive construction excavations was pumped into the channel to reach the Vandiyur Kanmoi and it was only after the intervention of the fifth respondent's officials, those pipes were removed, that the channel that runs adjacent to the ninth respondent campus alongside Melur road that leads to Meenakshi Mission hospital from Mattuthavani bus stand and then to the Madurai High Court, that the channel just adjacent to the ninth respondent was filled with sand to cover up the standing water, that since the petitioner lives behind the above location, had experienced water flooding in their locality for several years, whenever the free flow of water is obstructed and that proper steps are to be taken for smooth water flow in the channel and no obstructions are made to the same.

8. In paragraph No.12 of the affidavit, the petitioner has alleged that the traffic chaos that had been caused subsequent to the opening of the ninth respondent's stores, made the civic and police bear the brunt of the public anger and as a result causing extreme public nuisance, that the people travelling from Mattuthavani area towards the Madurai High Court were all very seriously affected, as a result of illegal parking that



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was forced on the people on the Melur road, opposite to the ninth respondent stores and many people who were rushing for urgent errands and professional works were deeply affected due to this public nuisances caused, that the petitioner's personal entry and that of the co-residents of Lake Area and TTC Nagar to their respective colonies was very seriously affected with the students coming back from schools and colleges, doctors, policemen and women coming back from work, lawyers going to and coming back from Courts all having to wait for a very long time and sometimes even over 30 minutes to enter their colony from the main road. The petitioner has also alleged that there are no emergency stairs that are visible to the naked eye and made known to the public who enter the premises to be used in case of any man made or natural disaster.

9. It is the specific contention of the petitioner that in case of natural disaster, the people living in and around the ninth respondent's building including the petitioner and his family will be seriously affected and that is why he has been raising his complaints of public nuisances and for removal of the same.



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10. At this juncture, it is necessary to refer the decision of the Division Bench of Karnataka High Court in ***W.A.No.2872 of 2013 (BDA) and batch of appeals, dated 26.02.2021 (Syndicate Bank Vs. M/s. Manyatha Residents Association represented by its Secretary)*** and the relevant passages are extracted hereunder:

“In the case of public interest litigation, the petitioners would have no personal or individual interest in the subject matter of the petition. It is filed purely in public interest so as to secure justice for those who cannot approach the Court or in order to assail an illegal action initiated by the State Government, its agencies or instrumentalities. In such a case, doctrine of locus standi is relaxed and the same is for the purpose of bringing to the notice of the High Court (or Supreme Court under Article 32 of the Constitution) for securing justice, in the realm of enforcement of fundamental rights, constitutional rights, or other legal rights for the benefit of those persons who are not in a position to approach the Constitutional Courts and in the larger interest of the general public. In all other cases, where a writ petition is filed under Article 226 of the Constitution, for enforcement of a fundamental right or any legal right, such a petitioner must have a locus standi to do so by demonstrating that there is a legal wrong done to him by violation of his right and therefore, being an aggrieved person, has the right to file the writ petition and not otherwise. The principle of standing or locus standi in all public interest litigation if applied to individual standing,



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it would result in destroying the time-tested concept of “standing” which has authority in India from the Anglo-Saxon Jurisprudence as well as American Law Jurisprudence.”

11. As rightly contended by the learned Counsel for the petitioner, in the case on hand, it cannot be stated that the petitioner would have no personal or individual interest in the subject matter of the petition and as such, the same cannot be considered as a Public Interest Litigation. Since the petitioner has alleged that his right to live and his right to move freely are being affected, he has every right and competency to file the above writ petition invoking Article 226 of the Constitution of India. Considering the petitioner's affidavit averments and the present contentions, this Court has no hesitation to hold that the petitioner has locus standi to file the above writ petition invoking Article 226 of the Constitution of India.

12. Now coming to the second technical objection of the ninth respondent that a Writ petition is not maintainable when an effective alternative remedy is available to the petitioner. At this juncture, it is necessary to refer a recent decision of the Hon'ble Supreme Court in *M/s*



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**Godrej Sara Lee Ltd., Vs. The Excise and Taxation officer - cum-
Assessing authority and Others**, reported in **2023 Live Law (SC) 70**,

wherein the Hon'ble Apex Court held as follows:

“Mere availability of an alternative remedy would not oust the writ jurisdiction.

The power to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to Article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the high court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the high courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under Article 226 that has evolved through judicial precedents is that the high courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the



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high court under Article 226 has not pursued, would not oust the jurisdiction of the high court and render a writ petition “not maintainable”.

13. The Hon'ble Apex Court in catena of decisions, has reiterated the legal position that alternative remedy would not operate as an absolute bar. Hence, the above objection of the ninth respondent is also devoid of merits and the same is liable for rejection.

14. The next contention raised on behalf of the ninth respondent that the present writ petition which contains so many allegations about the duty of the various departments of the Government cannot be treated as a Writ Petition (Crl.), that the *suo motu* action of this Court impleading the Director of Town and Country Planning, calling for reports from the Commissioner of Madurai Corporation about the planning permission and construction, from the District Officer, Fire and Rescue Department, are all beyond the purview of the subject roster assigned to this Bench and therefore, the ninth respondent is opposing the listing of the above writ petition before this Bench.



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15. At the outset, the above contention of the ninth respondent, in the view of this Court, is ridiculous. First of all, the plea was not at all raised in the earlier hearings, but was canvassed in the final arguments. It is pertinent to note that on the basis of the allegations raised and the nature of the relief claimed, more particularly the allegation of the petitioner that he has suffered personally due to the public nuisances complained of, the above Writ Petition (Crl.) has rightly been posted before this Bench. During the hearing, considering the nature of the allegations and charges levelled and also the submission of the Counsel appearing for the Government Departments, this Court, suo motu impleaded the Director of Town and Country Planning, directed the Commissioner of Madurai Corporation and the District Officer of the Fire and Rescue department, to submit reports. When this Court was exercising its jurisdiction under Article 226 of the Constitution of India, it has the powers to add any other party whose presence is required for disposal of the case and to call for reports from any of the departments incidentally. When this Court was conducting an enquiry in the above writ petition, after having satisfied itself, prima facie that the Writ Petition is maintainable, is having every power and jurisdiction to



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implead any party or to call for report from any of the parties to the lis or from a third party, to find out the truth and to decide the issues involved in the lis. Hence, the very challenge of this Court's jurisdiction is not only improper, but not warranted, ill motivated and in bad taste.

16. The learned Counsel for the petitioner would contend that during the construction, they have not made any information available to the public at large, indicating in a manner that was visible to the public, about who owns the land on which the massive building was being constructed and the purpose the construction was to serve as.

17. The learned Counsel for the ninth respondent would contend that there is no provision of law contemplating such notice to the public at large, regarding the ownership, the purpose for which the constructions are to be put to use. In order to counter the said argument, the learned Counsel for the petitioner has relied on the Tamil Nadu Combined Development and Building Rules, 2019, wherein Rule 10(7) contemplates that the details of the development for which planning permission issued, date of expiry of permit, mentioning site address,



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survey number, Block number, Village Name, door number, street name, locality, name of owner and name of Registered Architect or Engineer on record and that the above particulars shall be displayed in the format prescribed by the competent authority on a board of size of at least 60cm. x 120cm.

18. As rightly contended by the learned Counsel for the petitioner, even on the plea raised by the ninth respondent that there is no provision of law contemplating public notice, it can be easily inferred that they have not complied with the requirement contemplated under the provisions of Tamil Nadu Combined Development and Building Rules. It is not the case of the ninth respondent that they had kept a notice board as contemplated under Rule 10 of the said Rules. Considering the above, this Court finds some merit in the contention of the learned Counsel for the petitioner in this regard.

19. It is not in dispute that the Melur road is a very busy road, wherein Mattuthavani MGR Integrated Bus stand, the omni bus stand, central vegetable, flower and fruits markets, central fish market, many



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hospitals, including Meenakshi Mission Hospital and Research centre , as well lodges are situated. Moreover public, including Advocates commute through this route to reach Madurai High Court from their respective places and from Madurai District Court campus. The main complaint of the petitioner is that due to the omission and commission on the part of the ninth respondent, there is traffic congestion in Melur road and it in turn severely affects the petitioner and the public at large.

20. The petitioner has listed out some of the existing nuisances in his report as well as in his affidavit filed in support of the petition, which are extracted hereunder:

“

13.1 In spite of a large parking area advertised to be available on its business premises, Super Saravana Stores is not fully utilizing the same and even autorickshaws, share autos, taxis etc., all stop at the entrance of the said store, on the main road for dropping and picking up passengers, thus causing severe traffic jam;



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13.2 Inspite of the presence of traffic police after the petitioner's consistent complaints to the traffic police, vehicles are found to be parked on the both sides of the road, opposite the Super Saravana Stores running from Mattuthavani to Melur causing extreme inconvenience to the already heavy traffic on that road;

13.3 The road leading to the Lake Area and TTC is found to be a convenient location for public who visit this store, to park their vehicles. The vehicles are being parked in a haphazard manner, on an already narrow and sole entrance to the residential area, blocking the complete traffic to and from our own Lake Area causing our residents very great difficulties;

13.4 Night stalls (hawkers) have slowly started being temporarily established and running alongside the said road especially in the evenings and at night and causing extreme traffic nuisance to vehicles moving from the Mattuthavani bus stand to Melur;

.....”



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21. The learned Counsel for the ninth respondent, with respect to the bridge which is allegedly the entry point to Lake Area and TTC Nagar, would submit that the same is a public bridge and as such, the same can be used by any public including the ninth respondent, that this bridge was not used by the ninth respondent to take any huge, multi tonne vehicles, but the ninth respondent had constructed their own two bridges from the Madurai-Melur road to cross the water channel after obtaining approval from Public Works Department and that the ninth respondent had given Rs.42,50,000/- as good gesture to Madurai Corporation for construction of a high level broad bridge in the place of the old bridge.

22. As rightly contended by the learned Counsel for the petitioner, the eighth respondent/Public Works Department has neither filed any report nor any counter affidavit with regard to the complaint and allegations made by the petitioner with regard to the channels and the bridge.



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23. The seventh respondent, in their status report has stated that the staircase in the building of the ninth respondent satisfies the guidelines given in the National Building Code of India 2016 and they have listed out the guidelines, wherein it has been specifically stated that the external stairs shall always be kept in sound and usable condition, that shall be directly connected to the ground and that the entrance to the external stairs shall be separate and remote from the internal staircase. It is further stated that external stairs shall be constructed using non-combustible materials and any doorway leading to it shall have minimum 120min free resistance and shall have straight flight not less than 1500 mm wide.

24. The main complaint of the petitioner is that there is no visible external exit in the entire building, visible to the naked eye. As rightly contended by the learned Counsel for the petitioner, the seventh respondent has not stated anything about this aspect specifically. Moreover, the Joint Director of Fire and Rescue Services, Western Region, Coimbatore, who is holding the additional charge of Deputy



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Director, Southern Region, Madurai, has sent an inspection report to the Director, Tamil Nadu Fire and Rescue Services, Chennai, dated 22.11.2022, after inspecting the building of the ninth respondent on 21.11.2022. In the said report, the inspection team had recommended to issue the Compliance Certificate with the following conditions, wherein they have listed out seven conditions which includes that the existing staircases should be made with pressurization as per the NBC-2016. It is not known as to whether the ninth respondent has complied with the above conditions before throwing open the building for public use.

25. Regarding traffic congestion, the Deputy Commissioner of Police, Traffic, Madurai City has filed a status report, dated 27.01.2023, wherein they have reiterated some of the issues raised by the petitioner and the same are reproduced hereunder for better appreciation:

“5. It is further submitted that meanwhile from 5th December onwards the Melur road at Mattuthavani Junction has become high traffic congested and the movement of motorists was blocked from Othakadai in the Northern Sector, Melamadai from the Eastern Section and Sipcot Junction from the Southern Sector because of the commencement of Super Saravana Stores an integrated



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shopping mall at Melur road next to Meenakshi Mission Hospital constructed comprising of 6 Lakh Square Feet Building in 10 floors having capacity of parking 1000 vehicles which invites minimum 10,000 to 25,000 public on weekdays and 1.5 to 2 laksh on holidays.

6. It is submitted that because of the commencement of the unplanned business centre without conducted any field survey by the expert committee for the feasibility of pedestrains without providing safe and secure walking spaces and for the motorists to use the roads as guided by the Ministry of Road Transport and Highways and also the unproportionate road space to meet out the customer's entry and exit of the aforesaid shopping mall from the 40 feet width of road space.

7. It is submitted that due to the non-availability of road space the general commuters, patients and their relatives, the residents around the circle, Doctors and Para Medical personnel, Advocates and Traders are facing a struggle to cross the junction which violates the rights of the pedestrain and motorists which become added burden of the traffic officers and forced the strength under the supervision of Inspector, Mattuthavani Traffic, Assistant Commissioner of Police, Tallakulam Traffic and Additional Deputy Commissioner of Police, Planning during the weekends.”

26. In the status report, it has been further stated that they are forced to post 5 Sub-Inspectors of Police and 15 others in the diversion points nearby the ninth respondent. It has been further stated that they



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have already sent a report to the Commissioner of Police, Madurai City to address the aforesaid issues to the Collector, Madurai District to convene a meeting with the officials of Town and Country Planning, State/National Highways and Corporation officials to discuss the aforesaid issues and to provide sufficient pathway on both sides to facilitate public movement without any traffic uproar.

27. Regarding the complaint of public nuisances listed out by the petitioner, the learned Counsel for the ninth respondent would submit that the ninth respondent has no control over any third parties parking their vehicles on the Melur road, street hawkers on the Melur road and even autorickshaws, share autos stopping at the entrance of the shop on the Melur road. As rightly contended by the learned Counsel for the petitioner, the ninth respondent is not an ordinary shop or a business establishment, but it is a store running in 10 floors inviting people in thousands on week days and lakhs during week ends and holidays. The ninth respondent is a massive business establishment with innumerable customers and as such, they cannot be allowed to say that they do not have control over parking of vehicles, allowing of illegal hawkers and



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eating stalls and starting auto stands and share auto stops on both sides of Melur road. It is very much shocking to notice such argument from the ninth respondent.

28. During the pendency of the above petition, on 01.03.2023 a major fire broke out on the top floor of the ninth respondent building. Though this incident was pointed out at the time of arguments, no materials have been placed by any of the parties in this regard. In “Hindu”, it has been reported that the sprinklers installed in the high-rise building did not work, that the firemen had to break open the glass panes to allow the billowing smoke to disperse from the building and that a blanket of thick black smoke hovered over the Mattuthavani bus stand and the adjoining area. In “Times of India”, it has been reported that the property worth about Thirty Seven Crores has been damaged and some employees had suffered suffocation due to smoke inhalation and required brief hospitalisation. No doubt, there is no evidence to confirm the above aspects. But the facts remains that a fire accident had occurred in the building in question within three months since its opening. Considering the above, the apprehension of the petitioner cannot said to



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be baseless.

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29. As rightly contended by the learned Counsel for the petitioner, the main purpose of sending representations and filing of the above writ petition is to see that all the statutory requirements are properly complied with and there are no violations and that the public nuisances that are existing are removed.

30. The term nuisance has been defined in Halsbury's Laws of England "even in the present day there is not entire agreement as to whether certain acts or omissions shall be classed as nuisances or whether they do not rather fall under other divisions of the law of tort". The Hon'ble Supreme Court in *Vasant Manga Nikumba Vs Baburao Bhikanna Naidu* reported in *1955 Supp (4) SCC 54*, has observed that nuisance is an inconvenience which materially interferes with the ordinary physical comfort of human existence. Section 268 I.P.C., defines what is public nuisance as "A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the



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people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.”

31. A perusal of Section 133 Cr.P.C., would make it clear that under the said provisions, the Magistrate has been given sufficient power to deal with the removal of obstructions on public road and to deal with the public nuisance, that the said power can be exercised either on receipt of the police report or other information and arises under the six circumstances enumerated in Section 133 Cr.P.C.,. It is evidently clear that starting from Section 133, detailed adequate provisions have been made right upto Section 143 Cr.P.C., and the aforesaid gamet of proceedings constitutes a complete code for removal of encroachment or obstruction from the public land which leads to public inconvenience or public nuisance.

32. The Hon'ble Supreme Court in ***Municipal Council, Ratlam vs***



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Shri Vardhichand and Others reported in **AIR 1980 SC 1622**, Justice

V.R.Krishnaiyer speaking for the Bench has observed that wherever there is a public nuisance, the presence of [Sec.133](#) Criminal Procedure Code must be felt and any contrary opinion is contrary to the law and further held as follows:

“The public power of the Magistrate under [the Code](#) is a public duty to the members of the public who are victims of the nuisance and so he shall exercise, it when the jurisdictional facts are present.

The Municipal Commissioner or other executive authority bound by the order under [s. 133](#) Criminal Procedure Code shall obey the direction because disobedience, if causes obstruction or annoyance or injury to any persons lawfully pursuing their employment, shall be punished with simple imprisonment or fine as prescribed in the section. The offence is aggravated if the disobedience tends to cause danger to human health or safety.

Where Directive Principles have found statutory expression in Do's and Don'ts the court will not sit idly by and allow municipal government to become a statutory mockery. The law will relentlessly be enforced and the plea of poor finance will be poor alibi when people in misery cry for justice. The dynamics of the judicial process have a new 'enforcement' dimension not merely through some of the provisions [of the Criminal Procedure Code](#) (as here) but also through activated tort consciousness. The officers



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in charge and even the elected representatives will have to face the penalty of the law if what the Constitution and follow up legislation direct them to do are defied or denied wrongfully. The wages of violation is punishment, corporate and personal.”

33. The learned Counsel for the ninth respondent would contend that the petitioner ought to have preferred a complaint before the Magistrate as contemplated under Section 133 Cr.P.C., but without preferring any such complaint, he has come forward before this Court straight away invoking Article 226 of the Constitution of India.

34. No doubt, as already pointed out, Section 133 Cr.P.C., gives power and jurisdiction to the Magistrate to decide about the public nuisances complained of and order for removal of the same. But in the case on hand, as already pointed out, since the complaint to the District Magistrate and other respondents fell on deaf ears, the present petition came to be filed before this Court. Moreover, without prejudice to the observations already made, this Court is not inclined to go into and decide as to whether public nuisance complained of, were existing or still exists and it is absolutely for the competent authorities to initiate



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necessary action.

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35. Considering the above, this Court is of the clear view that necessary directions are to be issued to the first respondent to find out as to whether the public nuisances complained of are still existing and in case, the public nuisances are still existing, to take necessary action for the removal of the same. Accordingly the first respondent / District Magistrate is directed to constitute a Committee consisting of the officials from all the Government departments connected with the issues involved in the above case, for inspection of the ninth respondent buildings and the surrounding area and to see as to whether the public nuisances complained of are still existing and in case of a report that the public nuisances are still existing, the first respondent shall direct the ninth respondent to remove the nuisances or rectify the defects pointed out within a time frame to be fixed and in the case of failure to comply with the directions, the first respondent is directed to take appropriate action, in accordance with law.



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36. With the above directions, the Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.06.2023

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

To

1. The District Magistrate and District Collector,
Madurai,
Madurai – 625 020.
2. The Revenue Divisional Officer,
Madurai District,
Madurai-625 020.
3. The Tahsildar,
Madurai East Taluk,
Madurai District.
4. The Commissioner of Police,
Madurai City,
Madurai-625 002.
5. The Commissioner of Corporation,
Madurai City Corporation,
Madurai-625 002.
6. The Deputy Commissioner of Police(Traffic),
Madurai City,
Madurai-625 002.

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7. The District Officer,
Fire & Rescue Department,
District Collector Office Campus,
Madurai-625 020.
8. The Superintending Engineer,
Public Works Department,
Tallakulam,
Madurai-625 002.
9. The Director,
Town and Country Planning,
Chennai.
10. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY ORDER MADE IN

W.P.(MD)No.28841 of 2022

Dated:12.06.2023