

In the High Court of Judicature at Madras

Dated : 05.1.2016

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.No.41064 of 2015 and MP.No.1 of 2015

1.D.Ayyapan
2.K.Elumalai
3.C.Kannan

...Petitioners

Vs

1.The District Collector, Tiruvannamalai
District, Tiruvannamalai.
2.The Assistant Director of Panchayats,
Tiruvannamalai District Collectorate,
Tiruvannamalai.
3.The Block Development Officer,
Polur Panchayat Union, Polur,
Tiruvannamalai District.
4.The Village President, Kelur
Panchayat, Polur Taluk,
Tiruvannamalai District.
5.The Chairman, Panchayat Union
Council, Polur Taluk, Tiruvannamalai
District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the third respondent to construct commercial buildings only without closed walls and doors in subject land 1.32.50 Hectare (around 3.50 Acres) comprised in S.Nos.118/2C and 118/5 in Theppanandal Village, belonging to Kelur Panchayat in Polur Taluk and Tiruvannamalai District from the funds proposed to construct commercial complex at Kelur panchayt in Thepananthal Village.

For Petitioners : Mr.P.Rajkumar Pandian
For Respondents 1, 2 & 5 : Mr.R.Rajeswaran, SGP
For Respondents 3 & 4 : Mr.R.Govindasamy

ORDER

Mr.R.Rajeswaran, learned Special Government Pleader accepts notice for respondents 1, 2 and 5. Mr.M.Govindasamy, learned counsel takes notice for respondents 3 and 4. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, claiming themselves to be traders carrying on the business of selling of fruits, vegetables, household articles and other commodities, have come forward with this writ petition praying for the issuance of a Writ of Mandamus to direct the third respondent to construct the commercial complex only without closed walls and doors, as it would be a hindrance to the small vendors like the petitioners.

3. Earlier, the petitioner approached this Court by filing W.P.No.36506 of 2015 to quash the proceedings of the panchayat union dated 15.9.2015 as well as the resolutions of the panchayat council bearing resolution Nos.82 and 83 and for a direction to forbear the respondents from altering and modifying the physical features of the land in question. The said writ petition was dismissed on 17.11.2015 as withdrawn. Though in the affidavit filed in support of this writ petition, it is stated that liberty was granted to file a fresh writ petition, from the order dated 17.11.2015, it is seen that no such liberty was granted.

4. Be that as it may, the petitioners' grievance is that small traders would be affected, if the shopping complex is constructed with compound wall and doors.

5. However, these issues cannot be adjudicated in a writ petition and it is for the concerned Local Authority to take a conscious decision in the matter considering the welfare of the public as well as the traders. Therefore, the prayer sought for cannot be granted. However, since a representation has been given by the petitioners on 26.11.2015 to the Authorities, it would be proper for the Authorities to consider the said representation.

6. In the light of the above, without going into the merits of the claim made by the petitioners, the writ petition is disposed of with a direction to the second respondent to consider the representation of the petitioners dated 26.11.2015 on merits and pass appropriate orders in accordance with law,

within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the above MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector, Tiruvannamalai District,
Tiruvannamalai.

2.The Assistant Director of Panchayats, Tiruvannamalai District
Collectorate,
Tiruvannamalai.

3.The Block Development Officer, Polur Panchayat Union, Polur,
Tiruvannamalai District.

4.The Village President, Kelur Panchayat, Polur Taluk,
Tiruvannamalai
District.

5.The Chairman, Panchayat Union Council, Polur Taluk,
Tiruvannamalai
District.

WP.No.41064 of 2015
and MP.No.1 of 2015

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