



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) No.3372 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

S.Kartheeswaran

.. Petitioner

-Vs-

1.The Director of Environment,
Convenor,
Coastal Regulation Zone,
Panagal Building, Ground Floor,
Saidapet, Chennai.

2.The District Collector,
Authority Incharge/District Chairman,
Control Regulation Zone,
District Collectorate,
Tuticorin.

3.The Executive Officer,
Thiruchendur Selection grade Panchayat,
Thiruchendur.

4.The Superintendent of Police,
Tuticorin District,
Tuticorin.

5.The Deputy Superintendent of Police,
Thiruchendur.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the Respondents 1 and 2 to consider the Petitioner's representation dated 30.01.2015 and take appropriate action in accordance with law and restrain the Respondents 4 and 5 from constructing any super structure in S.F.No.214/1, Thiruchendur having an extent of 0.20.0 hectare, T.P.Salai, Thiruchendur, Thiruchendur Taluk without C.R.Z. permission.

For Petitioner : Mr.M.Vallinayagam, Senior Counsel
for Mr.D.Nallathambi

<https://hcservices.ecourts.gov.in/> For Respondents : Mr.M.Govindan
Special Government Pleader

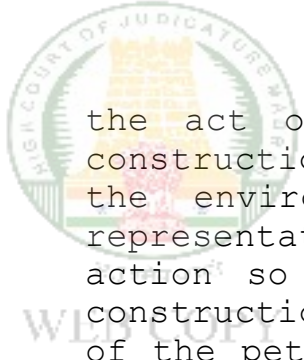
**ORDER**

The petitioner has filed this writ petition for issuance of Writ of Mandamus directing the respondents 1 & 2 to consider the petitioner's representation dated 30.01.2015 and take appropriate action in accordance with law and restrain the respondents 4 & 5 from constructing any super structure in S.F.No.214/1, Tiruchendur having an extent of 0.20.0 hectare, T.P. Salai, Tiruchendur without C.R.Z permission.

2.This public interest litigation writ petition is filed by one S.Kartheshwaran of Pallakuruchi Village, Sathankulam Taluk. The petitioner in this writ petition has prayed for the direction by way of this writ of Mandamus directing the respondents 1 & 2 herein to consider his representation dated 30.01.2015 and to take appropriate action in accordance with law and restrain the respondents 4 & 5 from constructing any superstructure in S.F.No.214/1 in Tiruchendur measuring an extent of 0.20.0 hectare, T.P.Salai, Tiruchendur without getting permission from C.R.Z.

3.It is the case of the petitioner is that the land in Survey No.214/1 measuring an extent of 0.20.0 hectare in T.P.Salai, Tiruchendur is the government poromboke land is under the control of police department and the same is being used as Police Training Ground. The said Government Poromboke land is situated within 250 feet distance from Tiruchendur sea shore. In the said land the respondents 4 & 5 and their subordinate are taking effective steps to construct police station and they also put a small hut and also stored iron rods and other construction materials. As per the Coastal Regulation Zone Notifications issued by the Ministry of Environmental and the Forest Department dated 19.02.1991 and amended notifications dated 16.08.1994, in clause 6(2) of the said notifications in C.R.Z-1 No new construction shall be permitted within 500 meters of the High Tide Line. No construction activity, except as listed under II (xii) will be permitted between the Low Tide Line and High Tide Line. The object of prohibition of making construction within 500 meters from sea shore is to keep a good environment in the interest of public and protection of life of public would be defeated if any construction is made within the prohibited distance of 500 meter. But, the respondents 4 & 5 herein without following the above said norms prescribed by the Central Government, decided to construct police station in S. No. 214/1 is against the ban to construct building within 500 meter from sea shore.

4.The further case of the petitioner is that the 3rd respondent Panchayat has passed a resolution on 21.02.2014 that the Government Poromboke land in S.F.No.214/1 Tiruchendur is required to the Panchayat for parking the vehicle of the devotees coming to worship Tiruchendur Temple. Further, the 3rd respondent Panchayat in a reply given to one Sivamurugan for his RTI application informed him that no permission for construction of building in S.F.No.214/1, Tiruchendur has been given. Therefore



the act of the respondents 4 & 5 in taking steps to put up construction in S.F.No.214/1 in Tiruchendur is illegal and against the environmental. In this regard, the petitioner has sent representation on 31.01.2015 to the respondents 1 & 2 to take action so as to prevent the police department from making any construction in Survey No.214/1 Tiruchendur. Despite the receipt of the petitioner's representation, the respondents 1 & 2 did not take any action against the respondents 4 & 5 to prevent them from making construction. Hence the petitioner has come up with the present writ petition.

5. In order to ascertain the distance of the proposed construction of police station in S.F.No.214/1, this court by order dated 12.03.2015 appointed an advocate commissioner to inspect Survey No.214/1 with the help of the Surveyor and to file a report before this court. The Learned advocate Commissioner visited the site and filed her report. In the said report, it is clearly mentioned that the distance between the proposed construction of Police Station and the sea shore is less than 500 meter.

6. The respondents have filed counter affidavit and admitted the distance between the proposed construction site and the sea shore is less than 500 meter. It is further submitted by the respondents that the Learner Advocate Commissioner has specifically mentioned the exact measurement of the distance from sea shore to the proposed construction of police station in three directions which are as follows:

The Eastern side of the sea Front from the North East corner of the property is 43 meters.

The North East side of the Sea Front from the North East of the property is 76 meters.

The Northern side of the Sea Front from the North of the property is 137 meters.

7. It is the further case of the respondents is that the land in question in S.No.241/1 measuring an extent of 0.20.0 hectare in Keela Tiruchendur village is classified as government poramboke and the same is used as "Kavathu Maidanam". For constructing a police station at Tiruchendur, administrative sanction was accorded in G.O.Ms.No.146 Home (Police X) Department dated 24.02.2014 and the work was entrusted with the Tamil Nadu Police Housing Corporation and the work is in progress. In the meanwhile, on the complaint of the petitioner herein the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tutuicorin directed the Executive Officer, Tiruchendur Town Panchayat to stop the construction activities in the unpermitted area of C.R.Z area. The respondent further submitted that the Regional Deputy Director (in-charge) Town and country planning Tirunelveli in his letter dated 20.03.2015 in Roc. No.521/15 has informed the Executive Officer, Tiruchendur Town Panchayat to



direct the police department to get approval from the Coastal Regulation Zone. In so far as the proposed construction of building is concern, it is for the public purpose and it is to be constructed by the Tamil Nadu Police Housing Corporation, no building plan was necessary and hence the construction was commenced. In the meanwhile, since the petitioner has given the objection to the proposed construction, it was stopped and a plan was submitted for approval by the competent authority.

8. We have heard the learned counsels on either side and perused the records. It is the specific case of the petitioner is that the respondents 4 & 5 in this writ petition have decided to construct a police station in S.F.No.214/1 of Tiruchendur measuring an extent of 0.20.0 hectare. The said proposed construction is within 500 meter distance from sea shore which is prohibited as per Coastal Regulation Zone notification. The said fact was also admitted by respondents in their counter affidavit.

9. We have also perused the Coastal Regulation Zone notification and clause 6 (2) CRZ-1 of the Coastal Regulation Zone is reproduced hereunder:

'No new construction shall be permitted within 500 meter of the High Tide Line. No construction activity, except as listed under 2 (xii), will be permitted between the Low Tide Line and the High Tide Line'.

As per the said regulation any construction within 500 meter distance from high tide line is prohibited. So the proposed construction of police station is also against the said regulation. However, the proposed construction of police station is necessary for the welfare of general public in order to prevent the pilgrims from being attacked by any miscreants. Further, during the temple festival time of Tiruchendur Lord Muruga lakhs of people would come to the temple and therefore in order to protect the devotees from the thief, policing the entire area is necessary. Apart from that as per letter of the Regional Deputy Director, Town and Country Planning, Tirunelveli dated 20.03.2015, has informed the Executive Officer, Tiruchendur Town Panchayat to direct the police department to get approval from the Coastal Regulation Zone.

10. That apart, we have also gone through the report of the Learned Advocate Commissioner, wherein it is stated that nearby the proposed construction, several buildings are situated around S.F.No.214/1, which are as follows:

(a) Highways department Traveler's Old Bungalow and newly constructing building for Traveler's are situated near by the limits of the eastern side of the S.No.214/1. The new Traveler's Bungalow construction is under progress is approximately 10 meters from the sea Front.

(b) The Hotel Tamil Nadu is on the eastern side of



the Highways Department is approximately 15 meters from the Sea Front.

(c) The "Thoondle Valai Palam" has been laid to an extent of 2 kilometers at the Sea Front.

(d) On the southern side of the property is the Traveler's Bungalow road. Further south of the road is private Bungalow, this is just opposite to Highways Department. Opposite to the disputed property Anbu Home, Revenue office cum Residences and open space are available. Behind the Revenue Office, All Women Police Station is situated.

(e) Opposite to the All Women Police station Sub-Registrar's office, Taluk offices are situated. Behind the Sub registrar's office, the Sub Court and Magistrate courts are situated. Sub Jail and Judge's quarters are situated behind the Taluk office.

11. Therefore, from the above, one thing is clear that already there are so many buildings in existence within the prohibited distance of 500 meter from sea shore. As discussed above, the proposed construction of the police station is for the security and welfare of the devotees. Therefore, in our considered opinion, the proposed construction of police station in S.F.No.254/1 of Keela Tiruchendur could be carried out, however, after complying the following direction:

(1) The authority concerned who proposed to construct a police station at the site in question shall adhere to section 58 of the Tamil Nadu Town and country planning Act, informing the authorities under the said Act about the proposal to construct the police station and

(2) the authority concerned who proposed to construct the police station at the site in question shall also obtain permission from the first respondent as required under Law, and also from the competent authority.

12. In the result, this writ petition is disposed of with the above direction. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar.



To

- 1.The Director of Environment,Convenor,
Coastal Regulation Zone,
Panagal Building, Ground Floor,
Saidapet, Chennai.
- 2.The District Collector,
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- 4.The Superintendent of Police,
Tuticorin District,Tuticorin.
- 5.The Deputy Superintendent of Police,
Thiruchendur.

+1CC to M/S.D.NALLATHAMBI,Advocate, SR.No.59432
+1CC to the Special Government Pleader, SR.No.60584

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and
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AM/JM/SV MMS/SAR3/07/03/2017/8C/6P