



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH**AND****THE HON'BLE MR.JUSTICE N.SATHISH KUMAR**

W.A. (MD) No.469 of 2014

P.Natarajan

... Appellant/Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Block Development Officer (Panchayats),
Munchirai Panchayat Union,
Puthukadai Post,
Kanyakumari District.
- 3.The President,
Methukummal First Grade Panchayat,
Munchirai Panchayat Union,
Methukummal Post,
Kanyakumari District.
- 4.The Correspondent,
St. Mary's Matric Higher Secondary School,
Vandankanavilai Post - 629 153,
Kanyakumari District.

... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)No.6266 of 2008 dated 18.10.2012.

Prayer in WP(MD). 6266/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned Resolution No.167 dated 29.2.2008 on the file of the 3rd respondent Panchayat and quash the same and consequently direct the respondents 1 to 3 to remove the Arch erected by the 4th Respondent at Vandankanavilai Junction, (Mariagiri) on the Kunnam Vilagam Road, Methukummal Panchayat, Kanyakumari District.

For Appellant

: Mr.D.Sivaraman

For Respondents 1 & 2

: Mr.T.R.Janarthanan

Additional Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/>

For 3rd Respondent

: No appearance

For 4th Respondent

: Mr.P.Subramanian

**JUDGMENT**

(Judgment of the Court was delivered by **M.M.SUNDRESH, J**)

The writ appeal has been preferred against the order of the learned Single Judge dated 18.10.2012, passed in W.P.(MD) No.6266 of 2008.

2.Heard the learned counsel appearing for the appellant, learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the 4th respondent and also perused the materials available on record.

3.This appeal perhaps is the indication of the ground reality prevailing in the district. The grievance of the appellant appears to be with respect to a construction made over the highway though with the permission of the respondent No.3. While it is the case of the appellant that such a permission is impermissible in law both under the District Panchayat Act as well as under the Highways Act. It is the case of the 4th respondent that it is in accordance with law.

4.Though the learned Single Judge has given findings apart from non-suiting the appellant on the strength of maintainability, we deem it fit to direct the respondent No.1 to look into the matter afresh and take a decision after affording an opportunity of hearing to the parties concerned.

5.Therefore, the appellant herein is permitted to make a representation/appeal in this regard to the first respondent within a period of four weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent No.1 is directed to conduct an enquiry after issuing notice to the concerned parties, including the appellant and fourth respondent, and take a conscious decision.

6.In view of the same, the findings rendered by the learned Single Judge both on merits and maintainability are set aside. Similarly, the imposition of cost is also deleted. Accordingly, the Writ Appeal is disposed of. No costs.

Sd/-

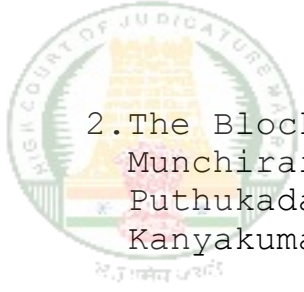
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Kanyakumari District,
Nagercoil.



2.The Block Development Officer (Panchayats),
Munchirai Panchayat Union,
Puthukadai Post,
Kanyakumari District.

+2cc to Mr.C.N.Ehomo saviour, Advocate, SR.69514
+1cc to Mr.D.Saravanan, Advocate, SR.70074
+1cc to M/S.Special Government Pleader, SR.70240

W.A. (MD) No.469 of 2014
02.08.2017

SJ
KK/MR KKR/SAR2/17.08.2017/ 3P- 7C