



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18-7-2014

CORAM

**THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR.JUSTICE R.MAHADEVAN**

**Writ Appeal (MD) No.874 of 2014
and
MP (MD) .No.1 of 2014**

Peer Mohammed

.. Appellant.

Versus

1. The District Collector,
Kanyakumari District at
Nagercoil.

2. Kuzhithurai Municipality,
Represented by its Chairman,
Kuzhithurai.

3. Delphin,
The Chairman,
Kuzhithurai Municipality,
Kuzhithurai.

4. The Commissioner,
Kuzhithurai Municipality,
Kuzhithurai.

.. Respondents.

Prayer: Appeal filed under Clause 15 of the Letters Patent Act, seeking to set aside the order dated 20.11.2012, in W.P.No.12926 of 2011.

Prayer in WP(MD). 12926/ 2011 :

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to call for the records relating to the impugned proceedings of the 4th respondent in Na.Ka.No.390/11/E dated 30.10.2011 and clause 4 and 5 of subject 1 of the resolution dated 03.11.2011 of the 2nd respondent and the impugned proceedings of the 2nd respondent dated 03.11.2011 and quash the same and consequently direct the respondents to shift the bus stop in front of the petitioner's textile show room to the place nearby Marthandam Police Station.

For Appellant	: Mr.S.Singh
For Respondents	: Mr.C.Selvaraj, Special G.P. (R1) Mr.K.Vamanan (R2 & R4)

**JUDGMENT**

(Judgment of the Court was made by **M. JAICHANDREN, J.**)

This writ appeal has been filed against the order of the learned single Judge, dated 20.11.2012, made in W.P.No.12926 of 2011.

2. The appellant in the present writ appeal is the petitioner in the Writ Petition. The Writ Petition had been filed by the appellant praying that this court may be pleased to issue a Writ of Certiorarified Mandamus to call for and quash the impugned proceedings of the 4th respondent, dated 30.10.2011, and Clauses 4 and 5 of Subject No.1 of the resolution and the impugned proceedings of the second respondent Municipality, dated 03.11.2011, and to direct the respondents to shift the bus stop, which is in front of the petitioner's textile show room, to another place, in Marthandam.

3. The learned single Judge, by his order, dated 20.11.2012, made in the writ petition, in W.P.(MD) No.12926 of 2011, had held that, as the resolution passed by the second respondent Municipality had not been given effect to, the reliefs prayed for by the petitioner is premature in nature. In such circumstances, it had also been held that the petitioner cannot be said to be an aggrieved party. The learned single Judge had also noted in his order, dated 20.11.2012, that the bus shelter, referred to in the writ petition, belongs to Kuzhithurai Municipality, the second respondent in the writ petition. As such, the petitioner could have no right to seek an order to shift the bus shelter, which had been constructed in the year, 1999, prior to the purchase of the property, by the petitioner, during the year, 2007.

4. At this stage of the hearing of the Writ Petition, the learned counsel appearing on behalf of the petitioner, the appellant in the present Writ Appeal, had submitted that the petitioner is really aggrieved by clause 4 of subject No.1 of the resolution of the second respondent Municipality, which contemplates the initiation of criminal proceedings against the present appellant, for the alleged illegal demolition of the bus shelter, by the petitioner.

5. Per contra, the learned counsels appearing on behalf of the respondents had submitted that the reliefs prayed for by the petitioner in the writ petition, in W.P.(MD) No.12926 of 2011, had become infructuous as the resolutions concerned passed by the second respondent Municipality, dated 03.11.2011, had not been given effect to. With regard to the claim of the writ petitioner, the appellant in the present Writ Appeal, that criminal action would be initiated against the appellant in the present Writ Appeal, for the alleged demolition of the bus shelter, cannot be an issue which could be raised before this court, under Article 226 of the Constitution of India. If any such action is initiated against the writ petitioner it would be open to him to defend himself in accordance with the procedures established by law. It would not be open to the petitioner to challenge the resolution passed by the second respondent Municipality, which would fall under the internal working of the said Municipality. As such, the writ petition filed by the petitioner, in W.P.(MD) No.12926 of 2011, was rightly dismissed by the learned single Judge holding that it was premature in nature and that the petitioner therein cannot be held to be an aggrieved party. Therefore, the present Writ Appeal filed by the writ petitioner, challenging the



order passed by the learned single Judge, dated 20.11.2012, is devoid of merits and hence, it is liable to be dismissed.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, we are of the considered view that the present writ appeal filed by the petitioner in the Writ Petition, in W.P.(MD) No.12926 of 2011, is devoid of merits. The learned single Judge had rightly held, in his order, dated 20.11.2012, made in W.P.(MD) No.12926 of 2011, that the Writ Petition filed by the petitioner, the appellant herein, is premature in nature. It cannot be said that the petitioner could be an aggrieved party, as no action had been taken against the petitioner, at this stage. Even otherwise, it would not be open to the petitioner to challenge the resolution passed by the second respondent Municipality, which is a part of its internal working process. As such, the appellant in the present Writ Appeal has not shown sufficient cause or reason for this Court to interfere with the order passed by the learned single Judge, dated 20.11.2012, in W.P.(MD) No.12926 of 2011. As such, the writ appeal is liable to be dismissed. Accordingly, the writ appeal stands dismissed. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District at Nagercoil.

2.The Chairman,
Kuzhithurai Municipality,
Kuzhithurai.

3. The Commissioner,
Kuzhithurai Municipality,
Kuzhithurai.

+1cc to Mr.K.Vamanan Advocate, Sr.No. 40367

+1cc to Mr.S.Singh Advocate, Sr.No. 40474

+1cc to Spl.Government Pleader Sr.No. 40199

csb

AA/27.08.2014/3p-7c/

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