



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No.17570 of 2017

and

W.M.P (MD) No.14097 of 2017

T.Santhosh Kumar

: Petitioner

.vs.

1. The District Collector cum
Inspector of Village Panchayats,
Kanyakumari Distrit,
Nagercoil.
2. The Revenue Divisional Officer,
Padmanabhapuram at Thuckalay,
Kanyakumari District.
3. The Tahsildhar,
Kuzhithurai,
Viavancode Taluk,
Kanyakumari District.
4. The Joint Commissioner/Executive Officer,
Incorporated & Unincorporated Temples of Kanyakumari District,
Sucheendrum & Post,
Kanyakumari District.
5. The Special Officer,
Ezhudesom Village Panchayat,
Ezhudesom,
Vilavancode Taluk,
Kanyakumari District.

6.Begin

7.Gisson

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the 1st to 4th respondents to consider the representation of the petitioner dated 24.07.2017 & 07.08.2017 and consequently forbear the 6th & 7th respondents from constructing a Ice Plant to



the north & east of Kirathoor Mahadevar Dewasom No.358, Ezhudesom Panchayat, Vilavancode Taluk, Kanyakumari District.

For Petitioner

: Mr.A.David Oliver

For R-1 to R-3 and R-5

: Mr.T.R.Janarthanan,
Additional Government Pleader

For R-4

: Mr.K.Sathiyasingh

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

The Petitioner has filed the present Writ Petition praying for passing of an order by this Court in directing the Respondents 1 to 4 to consider the representation of the petitioner dated 24.07.2017 & 07.08.2017 and to forbear the Respondents 6 and 7 from constructing a Ice Plant to the North & East of Kirathoor Mahadevar Dewasom No.358, Ezhudesom Panchayat, Vilavancode Taluk, Kanyakumari District.

2.Heard both sides. No counter-affidavit is filed on behalf of Respondents.

3. By consent, the main Writ Petition itself is taken up for final disposal.

4. According to the Petitioner, Kirathoor Mahadevar Dewasom Temple bearing No.358 is found place in Schedule I of the Hindu Religious and Charitable Endowment Act, 1959. There is a Sri Krishnan Sannithi & Sastha Sannithi in the said temple. All the Hindus residing at Ezhudesom Panchayat are the devotees of Kirathoor Mahadevar Dewasom.

5. It is the categorical plea of the Petitioner that on 14.02.2014, the sixth Respondent purchased 50 cents of land comprised in re-survey No.211/14 c of Ezhudesom Village, Vilavancode Taluk to the North and West of Kirathoor Mahadevar Dewasom panchayat.

6. The grievance of the Petitioner is that after the month of June 2017, the sixth Respondent's husband namely the seventh Respondent had started putting up a huge construction in the said property just North and West of Kirathoor Mahadevar Dewasom. In due course of time, the Petitioner and the common public came to know that the seventh Respondent is constructing an Ice Plant without any proper permission from the Revenue Authorities, local
<https://hservices.ecourt.gov.in/hservices/> Control Board, Department of Health & Family Welfare etc.



7. It comes to be known that the Petitioner along with representative of the entire Ezhudesom panchayat had submitted a petition before various Authorities to forbear the seventh Respondent from constructing the Ice Plant next to the Kirathoor Dewasom in person in the month of June, 2017 itself. Only due to the inaction of the numerous Authorities, the sixth and seventh Respondents continue to construct the Ice Plant day and night. Therefore, the Petitioner made a representation on 24.07.2017 to the Respondents 2 to 4 to forbear the seventh Respondent from constructing and running a huge Ice Plant without permission, in the sixth Respondent's land, next to Kirathoor Siva Koil & common panchayat Well with immediate effect. Even on 07.08.2017, an elaborate representation was addressed to the District Collector/Inspector of Village Panchayats, Kanyakumari District, Nagercoil. But, it proved futile. At this stage of hearing, the Learned Additional Government Pleader appearing for R-1 to R-3 and R-5 informs this Court that the first Respondent will consider the representation of the Petitioner dated 24.07.2017 and 07.08.2017 if any time limit is determined by this Court.

8. Considering the fact that the main grievance of the Petitioner is that the first Respondent and other concerned Authorities had not considered the representation of the Petitioner dated 24.07.2017 and 07.08.2017 respectively, this Court in the interest of justice and fair play, equity and even as a matter of prudence, directs the first Respondent to look into the representation of the Petitioner dated 24.07.2017 and 07.08.2017 within a period of two weeks from the date of receipt of a copy of this order.

9. It cannot be gainsaid that the first Respondent is to consider the representation of the Petitioner dated 24.07.2017 and 07.08.2017 with all seriousness and earnestness and to pass necessary orders within the afore stated period after providing necessary opportunity to the Petitioner and sixth and seventh Respondents after adhering to the principles of natural justice in the manner known to law and in accordance with law. It is open to the Petitioner and sixth and seventh Respondents to produce necessary documents and to raise all the factual and legal pleas before the first Respondent, who shall pass a reasoned order on merits based on the above representation of the Petitioner dated 24.07.2017 and 07.08.2017 within the time determined by this Court.

10. Before parting with the case, if the first Respondent comes to a conclusion that the sixth and seventh Respondents are constructing the Ice Plant in the sixth Respondent's property without permission etc., it is open to the first Respondent to take necessary action against the sixth and seventh Respondents for their purported illegal action in the manner known to law and



in accordance with law.

11. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector cum
Inspector of Village Panchayats,
Kanyakumari District, Nagercoil.
2. The Revenue Divisional Officer,
Padmanabhapuram at Thuckalay, Kanyakumari District.
3. The Tahsildhar,
Kuzhithurai, Viavancode Taluk, Kanyakumari District.
4. The Special Officer,
Ezhudesom Village Panchaya,
Ezhudesom,
Vilavancode Taluk,
Kanyakumari District.

+ 1 cc TO Mr.K.Sathiyasingh , Advocate in SR No. 82602
+ 1 cc TO Mr.S.Palanivelayutham , Advocate in SR No. 82697
+1cc to The Special Government Pleader in SR.No.82798

pm

AE/KP/SAR2/26.10.2017/4P/8C

**ORDER MADE IN
W.P. (MD) No.17570 of 2017
12.10.2017**