



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.04.2017

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THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P (MD) No.10479 of 2016

WEB COPY

M.S.Bindhu

..Petitioner

Vs

- 1.The Block Health Supervisor,
Govt. Primary Health Centre,
Arudesam, S.T.Mankad P.O.,
Kanyakumari District.
- 2.The Block Development Officer,
Munchirai Panchayat Union,
Kanyakumari District.
- 3.Sheela Vasanthi

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to remove the septic tank based on the report of the 1st Respondent forthwith and pass orders on the representation of the Petitioner dated 04.01.2016 within the time frame fixed by this Hon'ble Court.

For Petitioner :Mr.F.Deepak

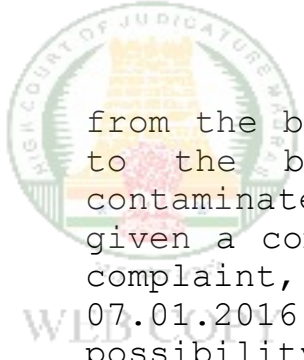
For Respondents 1 & 2 :Mr.V.Muruganandam
Additional Government Pleader

For 3rd Respondent :Mr.M.R.Sreenivasan

ORDER

The petitioner has approached this Court seeking a direction to the Respondents to remove the septic tank based on the report of the 1st Respondent forthwith and to pass orders on the representation of the Petitioner dated 04.01.2016 within a time frame.

2.The case of the petitioner is that she is living with her two children at Kulappuram Village, Kanyakumari District. Her husband is working in Defence Services and posted in Panjab State. According to her, the source of water supply is from the bore well attached to the house and the petitioner has been drawing water from the bore well for all the purposes. The third respondent, who is the neighbour of the petitioner, has constructed a toilet which is located very close to the bore well, which is the source of water supply to the petitioner. According to the petitioner, the said toilet is constructed within two square feet



from the bore well. Since the location of the toilet is very near to the bore well, it is hazardous and would pollute and contaminate the water drawn from the bore well. The petitioner has given a complaint to the respondents 1 and 2. On the basis of the complaint, the first respondent inspected the premises on 07.01.2016 and has given a report stating that there is every possibility of the drinking water to be polluted and contaminated by the usage of the septic tank. Since the report was dated 22.01.2016 and thereafter no action was taken by the authorities concerned, the petitioner has approached this Court for issuance of a Writ of Mandamus.

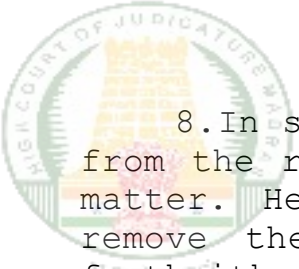
3. Upon notice, Mr.V.Muruganandam, the learned Additional Government Pleader entered appearance for the respondents 1 and 2 and Mr.M.R.Sreenivasan, the learned counsel entered appearance for the third respondent.

4. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that he has got a written instruction in the matter. A copy of the written instruction has been placed before this Court. The contents of the written instruction would point out that the third respondent has constructed the toilet without any permission and the same would be hazardous to the public health. In fact the written instruction would spell out the complaint given by the petitioner. According to the official respondents, the location of the septic tank and toilet would result in spreading of diseases in the neighbourhood. In spite of the above, no action has been taken against the third respondent for not removing the toilet/septic tank.

5. A counter affidavit has been filed on behalf of the third respondent. The learned counsel appearing for the third respondent would submit that the third respondent is a poor agricultural coolie and only with the aid of the Government, she was able to put up the house and the toilet under the Prime Minister's Swatch Bharat Scheme. According to the third respondent, the complaint of the Writ Petitioner is motivated and lacks by bonafides.

6. I have given my anxious consideration to the rival submissions made by the learned counsels appearing for the parties.

7. From the written instruction circulated by the respondents 1 and 2, it is very clear that the location of the toilet/septic tank is dangerous and hazardous to public health and would also seriously affect the general hygiene of the area. It also appears that no permission has been obtained from the authorities concerned for putting up toilet/septic tank. Therefore, if the third respondent is allowed to use the toilet/septic tank to the
<https://hccservices.mca.gov.in/hccservices/> the General Public, including the writ petitioner herein, their interest would be greatly prejudiced.



8. In such circumstances, in the absence of any positive action from the respondents 1 and 2, this Court has to intervene in the matter. Hence, The respondents 1 and 2 are hereby directed to remove the toilet/septic tank put up by the third respondent forthwith and communicate the action taken by the authorities to the petitioner. The said exercise shall be completed within a period of one week from the date of issue of a copy of this order.

9. Accordingly, the Writ Petition is allowed to the extent indicated above. There shall be no order as to costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Block Health Supervisor,
Govt. Primary Health Centre,
Arudesam, S.T.Mankad P.O.,
Kanyakumari District.

2. The Block Development Officer,
Munchirai Panchayat Union,
Kanyakumari District.

+1cc to Mr.M.R.Sreenivasan, Advocate, SR.54442

+1cc to Mr.F.Deepak, Advocate, SR.54773

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.55384

W.P (MD) No.10479 of 2016

27.04.2017

SJ

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