



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

CORAM:

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

W.P. (MD) No.21192 of 2017
and
W.M.P. (MD) No.17454 of 2017

C.Palanisamy,
S/o.Chinna Kodangi,
Union Secretary,
National South India River Interlinking
Farmers Association,
Sadavalampatty,
Adthikaram Post,
Marungapuri Taluk,
Trichy District.

: Petitioner

-Vs-

1.The District Collector,
Tiruchirappalli.

2.The Thasildhar,
Marungapuri,
Trichy District.

3.The Commissioner,
Marungapuri Panchayat Union Office,
Marungapuri,
Trichy District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the Respondents from constructing the Marriage Hall at the foot of the Morani Hillock in the Ponnampatty Village to avoid the untoward incident.

For Petitioner : Mr.A.Balamani
For Respondents : Mr.M.Govindan,
Special Government Pleader

O R D E R

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

The Petitioner has filed the instant Writ Petition seeking for the issuance of a Writ of Mandamus, to forbear the Respondents from constructing the Marriage Hall at the foot of the Morani Hillock in Ponnampatty Village to avoid the untoward incident.



2. Heard both sides. No counter is filed on behalf of the Respondents 1 to 3.

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

WEB COPY

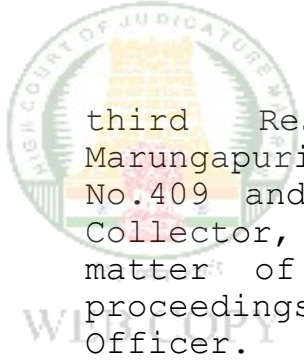
4. According to the Petitioner, his Village Sadavalampatty is a Hamlet of Ponnampatty Village and comes under Ponnampatty Town Panchayat, which includes Sadavalampatty Village, Ponnampatty Village, Adthupatty, Dhulukampatty, Malampatty, Udayampatty and Thuvarakurichi Villages. The Revenue Village is Ponnampatty Village for the above said Hamlet.

5. The stand of the Petitioner is that there is a small Hillock by name 'Morani' situated in Ponnampatty Village limit on the Eastern side of the Trichy - Madurai National Four Lane Highways Road. The distance between the 'Hillock' and the 'Highways' is nearly 200 feet. There are vacant land under the foot of the Hillock measuring 50 Cents. There are big rocks present on the top of the Hillock. The height is about 500 feet to 1000 feet. There is a danger for the people going along the foot of the Hillock and also on the National Highways.

6. The plea of the Petitioner is that some persons in the Ponnampatty Town Panchayat are making arrangements to construct a Marriage Hall at the foot of the Morani Hillock with the fund of MLA through the Respondents. The Petitioner and other persons submitted a Petition to the Respondents to refrain from constructing the Marriage Hall at the foot of the said Hillock. A Petition was submitted by the Petitioner on 06.11.2017 before the first Respondent requiring him to take appropriate action to stop the construction of the Marriage Hall at the foot of the 'Morani Hillock'. There are rocks present on the top of the Hillock and it may fall at any time during rainy season and cause damage to the persons in that area. That apart, the National Highways from Trichy-Madurai is 200 feet away from the foot of the Morani Hillock. The construction of Marriage Hall at the foot of the Morani Hillock is very dangerous to the people in the locality and it may cause any causality at any time.

7. The main contention advanced on behalf of the Petitioner is that there are number of poramboke lands available in the nearby places and if the Marriage Hall is constructed at the foot of the Morani Hillock, then it will cause damage to the people in the locality and also to the vehicles plying on the National Highways. Hence, the Petitioner has filed the present Writ Petition seeking the relief of Mandamus restraining the Respondents from constructing the Marriage Hall at the foot of the Morani Hillock in Ponnampatty Village to avoid any untoward incident.

8. In response, it is the submission of the Learned Special Government Pleader appearing for the Respondents 1 to 3 that the



third Respondent/Commissioner, Marungapuri Panchayat Union, Marungapuri, Trichy District, had identified the land bearing Survey No.409 and submitted a request to the first Respondent/District Collector, Tiruchirappalli, for land transfer on 18.08.2017. As a matter of fact, the land transfer was ordered, as per the proceedings dated 20.09.2017 of Srirangam Revenue Divisional Officer. Later, permission was accorded by the first Respondent/District Collector, to enter the land in question.

9. In regard to the plea of the Petitioner that if the Marriage Hall is put up at the foot of the Morani Hillock at Ponnampatti Village, untoward incidents may take place, the Learned Special Government Pleader appearing for the Respondents 1 to 3 points out that the land in Survey No.409 was identified by the third Respondent/Commissioner, Marungapuri Panchayat Union, as a suitable place and the apprehension of the Petitioner that the rocks present at the top of the Hillock may fall at any time during rainy season and cause damage, is only based on assumption, presumption, surmises and conjectures, which cannot be countenanced in the teeth of place being identified by the third Respondent, who had considered all the technical issues and addressed a communication to the first Respondent/District Collector. In short, all possible safeguards have been taken by the Respondents for the construction of Community Hall. As such, it is represented that the present Writ Petition filed by the Petitioner is highly a misconceived one.

10. A mere perusal of the proceedings of the first Respondent/District Collector would show that a special condition was imposed and also certain other conditions were imposed for entering upon the land in question. In fact, the pit surrounding the Community Hall on three sides measuring an extent of 6 feet deep and 3 feet breadth was directed to be maintained properly and in this regard, a special condition was imposed by the District Collector. As such, the proceedings of the first Respondent/District Collector, dated 28.09.2017 cannot be found fault with.

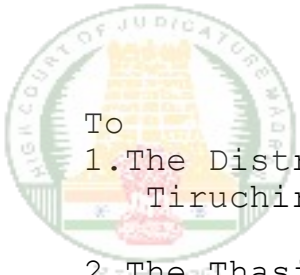
11. Considering the fact that the Respondents had taken into account the over-all assessment of the facts and circumstances of the subject matter in issue and they have also taken all possible precautions and safeguards in regard to the construction of Community Hall in question, this Court finds that the present Writ Petition filed by the Petitioner is devoid of merits. Viewed in that perspective, the Writ Petition fails.

12. In fine, the Writ Petition is dismissed leaving the parties to bear their own costs. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.



To

1.The District Collector,
Tiruchirappalli.

2.The Thasildhar,
Marungapuri,
Trichy District.

3.The Commissioner,
Marungapuri Panchayat Union Office,
Marungapuri,
Trichy District.

+1CC to the Special Government Pleader SR.No.88192

Order made in
W.P.(MD)No.21192 of 2017
Dated: 17.11.2017

SML

AM/SKN RSK/SAR 4/28.11.2017/4P/5C