



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2017

CORAM:

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

W.P.(MD)No.21802 of 2017

Thirumalai Kumar

: Petitioner

.vs.

1. The Assistant Director of Town Panchayat,
Tirunelveli Zone,
Tirunelveli-7.

2. The Executive Officer,
Surandai Selection Grade Town Panchayat,
Tirunelveli District.

3. Karuppasamy

: 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 Respondents 1 and 2 to remove the fish shop of the Third respondent situated at Aaladipatti, Surandai-Sankarankovil Main Road, Surandai, Tirunelveli District by considering the representation of the Petitioner, dated 29.8.2017 and 11.09.2017 within the time fixed by this Court.

For Petitioner : M/s.A.Mohan

For Respondent-1 : Mr.T.R.Janarthanan
Additional Govt.Pleader

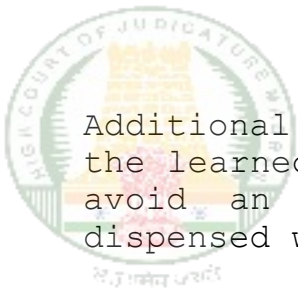
For Respondent-2 : Mr.J.Gunaseelan Muthiah
Standing Counsel

O R D E R

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

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the Respondents 1 and 2 to remove the fish shop of the Third respondent situated at Aaladipatti, Surandai-Sankarankovil Main Road, Surandai, Tirunelveli District by considering the representation of the Petitioner, dated 29.08.2017 and 11.09.2017 within the time fixed by this Court.

2.Heard the Learned Counsel for the Petitioner and the learned



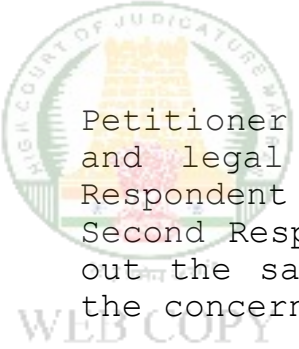
Additional Government Pleader appearing for the First Respondent and the learned Standing Counsel appearing for the Second Respondent. To avoid an avoidable delay, notice to the Third Respondent is dispensed with, in the interest of justice.

3.The Petitioner comes out with a version that in his locality, there is a fish shop put by the Third Respondent nearby Aaladipatti, Surandai-Sankarankovil Main Road, Surandai, Tirunelveli District.

4.The grievance of the Petitioner is that the said fish shop is surrounded by Schools, Hospitals and huge inhabitants and the Third Respondent is not maintaining the fish shop in a proper manner. Moreover, the Third Respondent is in the habit of throwing the wastage of fishes on a water channel, which passes very close to his shop. As such, there is a possibility of breeding of mosquitoes in Petitioner's locality, which, in turn will be a base for spreading of diseases.

5.It comes to be known that the Petitioner along with other villagers had addressed a representation, dated 29.8.2017 to the Second Respondent in person and requested him to take action for removing the fish shop. However, the Second Respondent assured them that appropriate action will be taken. However, till date no action has been taken based on the representation of the Petitioner and the villagers, dated 29.8.2017. Also, another reminder was sent on 11.09.2017 before the Respondents 1 and 2 to make an earnest request to remove the fish shop put up by the Third Respondent.

6.Considering the fact that the Petitioner's representations together with his villagers, dated 29.8.2017 and 11.09.2017 are pending for determination and that too, without any progression, in the subject-matter in issue, at this stage, this Court deems it fit and proper to pass orders in directing the Second Respondent to look into the representations of the Petitioner, dated 29.8.2017 and 11.09.2017 within a period of one week from the date of receipt of a copy of this order. If the Second Respondent finds some substance in the representations of the Petitioner and other villagers dated 29.8.2017 and 11.09.2017, then it is incumbent on the part of the Second Respondent is to hear the grievance of the Petitioner and other villagers in person and also to provide them a personal opportunity of hearing and if they want to put forward their views/objections in writing, they may be permitted to do so, within a period of one week from the date of receipt of a copy of this order, as he deems it fit and proper and after receipt of objections/response from the Petitioner and other villagers, the Second Respondent shall pass necessary orders on merits, of course, by issuing notice to the Third Respondent/alleged violator and also hear the objection of the Third Respondent and issue notice to the others concerned, if any. In any event, the final orders in the subject-matter in issue, is to be passed by the Second Respondent within a period of eight weeks thereafter. It is open to the



Petitioner as well as other villagers to raise all their factual and legal pleas before the Second Respondent. Also, the Third Respondent is directed to put forward his objection before the Second Respondent, who shall take into account of the same and meet out the same by answering both factual and legal points raised by the concerned parties.

7. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Assistant Director of Town Panchayat,
Tirunelveli Zone,
Tirunelveli-7.
2. The Executive Officer,
Surandai Selection Grade Town Panchayat,
Tirunelveli District.

+ 1 CC TO Mr.A.MOHAN, ADVOCATE IN SR No. 89867
+ 1 CC TO Mr.J.GUNASEELAN MUTHIAH, ADVOCATE IN SR No. 89711
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 89899

VSN

TE/SV-MMS/SAR-2 : 08/12/2017 : 3P/6C

ORDER MADE IN
W.P. (MD) No. 21802 Of 2017
27.11.2017