



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.SASIDHARAN**

AND

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. [MD] .No.5557 of 2017

and

W.M.P. (MD) No.4438 of 2017

S.Thangadurai

: Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to shift the present proposed latrine construction from drinking water tank to the opposite poramboke lands in S.No.273/3A, Keela Senkottai Road, Keela Valiyan Pothai, Tenkasi, Tirunelveli District, by considering the petitioner's representation dated 20.03.2017 within the period stipulated by this Court.

For Petitioner : Mr.M.Mohamed Sherbudeen

For Respondent No.1: Mr.T.S.Mohamed Mohideen,

Additional Government Pleader

For Respondent No.2: Mr.P.Athimoolapandian

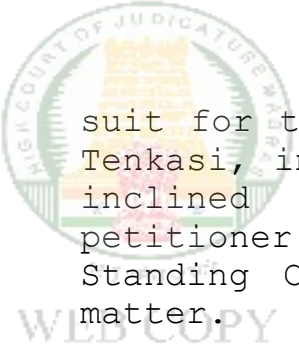
O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this Writ Petition to direct the second respondent to shift the latrine constructed by the local body in Survey No.273/3A, Keela Senkottai Road, Keela Valiyan Pothai, Tenkasi, Tirunelveli District.

2. The construction is opposed primarily on the ground that it was very near to a water tank.

3. The learned Standing Counsel for the Tenkasi Municipality, on instructions, submitted that initially, Thiru.M.Soundarrajan, who is none other than the father of the petitioner, filed a civil



suit for the very same relief before the learned District Munsif, Tenkasi, in O.S.No.82 of 2017. The learned District Munsif was not inclined to grant the interim prayer and thereafter, the petitioner filed this Writ Petition. According to the learned Standing Counsel, there is no public interest involved in this matter.

4. The factual matrix indicates that the father of the petitioner has already filed a civil suit. There is no question of filing a Writ Petition in the very same subject matter after filing the suit by the father before the Civil Court. It is open to the plaintiff in O.S.No.82 of 2017 to prosecute the suit. In any case, there is no public interest involved in this matter. It is also brought to our notice that the second respondent has already constructed the toilet in question. We, therefore, do not find any merit in the matter.

5. In the upshot, we dismiss the Writ Petition. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

SML/MR

PSM/SV/SAR2/26.07.2017/2P/3C

Order made in
W.P. [MD].No.5557 of 2017
Dated: 12.07.2017