



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P (MD) No.25095 of 2016

C.Godwin Yesudoss,
Secretary, Agastheeswaram Area Crops
Protection Association and Irrigation
Agriculturist Association,
Kottaram, Kanyakumari District.

.. Petitioner

Vs.

1. The District Collector,
Kanyakumari District at Nagercoil.

2. The Joint Director,
Town and Country Planning,
108, Thiruvananthapuram Road,
Palayamkottai, Tirunelveli District.

3. The Revenue Divisional Officer,
Agastheeswaram, Nagercoil,
Kanyakumari District.

4. The Executive Officer,
Kottaram, Agastheeswaram,
Kanyakumari District.

5. P.Sudhagar
6. Senthamarai

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 4 to stop the work for construction of building of Cancer Hospital in Survey No.61/7A1 at Kottaram, Agastheeswaram Taluk, Kanyakumari District and to cancel the building plan approval issued by the first respondent in Na.Ka.No.529/2015 Thi.Li.Ma3 dated 06.05.2015 by considering the petitioner's representation dated 15.04.2016.



For Petitioner : Mr.V.Sasikumar
For Respondents 1 to 4 : Mr.D.Muruganandam,
Additional Government Pleader.
For Respondents 5 and 6 : Mr.T.Lajapathi Roy

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ORDER**[Order of the Court was made by A.SELVAM, J.]**

This writ petition has been filed under Article 226 of the Constitution of India praying to direct the respondents 1 to 4 to stop the work for construction of building of Cancer Hospital in Survey No.61/7A1, Kottaram, Agastheeswaram Taluk, Kanyakumari District and consequently to cancel the building plan approval issued by the second respondent on 06.05.2015, by way of issuing a writ of mandamus.

2.It is averred in the petition that the petitioner is the Secretary of Agastheeswaram Area Crops Protection Association and Irrigation Agriculturist Association, Kottaram, Kanyakumari District. Further it is averred in the petition that the second respondent has given necessary permission to the sixth respondent for constructing a cancer hospital in Survey No.61/7A1, Kottaram, Agastheeswaram Taluk, Kanyakumari District. Further it is stated in the petition that in and around the survey number mentioned in the petition so many agriculture lands are available. Under the said circumstances, running of cancer hospital would affect crops and without considering the defects of running a cancer hospital in the place mentioned in the petition, the second respondent has passed such kind of order. Under the said circumstances, the present writ petition has been filed for getting the reliefs sought therein.

3.The learned counsel appearing for the petitioner has repeatedly contended that by way of running a cancer hospital in the survey number mentioned in the petition crops will be affected and under the said circumstances a representation has been given on 15.04.2016, but the same has not been considered and the second respondent has erroneously passed an order dated 06.05.2015 and therefore the present writ petition has been filed for getting the reliefs sought therein.

4.The learned counsel appearing for the respondents 5 and 6 has contended to the effect that the second respondent after considering the entire circumstances has granted permission by way of passing an order dated 06.05.2015 and a motive has been in the mind of the second respondent in granting the permission to the petitioner and the sixth respondent and due to that the present writ petition has been filed.



5.It is seen from the concerned order that the second respondent has considered all aspects for granting permission.

6.The only contention putforth on the side of the petitioner is that by way of running a cancer hospital in the place mentioned in the petition, crops in adjacent lands will be affected. The contention putforth on the side of the petitioner cannot be admitted. Further as noted down earlier, the second respondent after considering all the aspects, has granted necessary permission by way of passing necessary order. Since the second respondent has passed the concerned order after considering all the aspects, this Court is not inclined to grant the reliefs sought in the writ petition and altogether the present writ petition deserves to be dismissed.

7.In fine, this writ petition is dismissed without costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District
at Nagercoil.
 2. The Joint Director,
Town and Country Planning,
108, Thiruvananthapuram Road,
Palayamkottai, Tirunelveli District.
 3. The Revenue Divisional Officer,
Agastheeswaram, Nagercoil,
Kanyakumari District.
 4. The Executive Officer,
Kottaram, Agastheeswaram,
Kanyakumari District.
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 7485
+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 7404

SMN

TE/PM-PN : 16/02/2017 : 3P/7C

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ORDER MADE IN
W.P (MD) No.25095 of 2016
09.02.2017