



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 3037 of 2016

and

W.M.P. (MD) .No. 2668 of 2016

D.Dharmasamvarthini

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by its Chief Secretary,
Chennai - 9.

2.The Secretary to Government,
Public Works Department,
Secretariate,
Chennai - 600 009.

3.The Divisional Engineer,
Highways Department,
Thanjavur District, Thanjavur.

4.The District Collector,
Thanjavur District, Thanjavur.

5.The Block Development Officer,
Orathanadu Union Office,
Orathanadu, Thanjavur District.

6.The Panchyat President,
Avidanallavijayapuram,
Orathanadu Taluk,
Thanjavur District.

7.The Arch Construction Committee,
rep. by its Sampath,
S/o. Subbaiyan,
Nimmeli Thippiyakudi,
Orathanadu Taluk,
Thanjavur District.

.. Respondents

PRAYER: <https://hcservices.ecourts.gov.in/hcservices/> Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to remove permanent structure arch constructed across the Solagankarai



Highways Road meeting point at 31/0 K.M. Of Thanjavur - Pattukkottai Highways Road (HW-29).

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For petitioner : Mr.P.Vadivel
For respondents 1 to 4 : Mr.M.Govindan
Spl. Government Pleader
For Respondents 5 & 6 : No appearance
For Respondent No.7 : Mr.N.Dilip Kumar

O R D E R

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

The petitioner filed this Writ Petition on allegation that the seventh respondent has constructed a permanent structure in the nature of an arch across the Solagankarai Highways Road meeting point at 31/0 K.M. Of Thanjavur - Pattukkottai Highways Road (HW-29).

2.It is the case of the petitioner that the seventh respondent, without taking permission from the Competent Authority, erected the arch in a public place and as such the same deserves to be demolished.

3.The Counter Affidavit filed by the Divisional Engineer indicates that there was no permission given for erection of the arch.

4.The counter affidavit filed by the seventh respondent indicates that the arch was constructed in such a manner that it would not cause any nuisance to the general public. According to the seventh respondent, the litigation in question is a private interest litigation on account of the proceedings pending between the petitioner and the Temple.

5.The application submitted by the seventh respondent for construction of the arch is stated to be pending with the District Collector, Thanjavur. The seventh respondent ought to have waited till a decision is taken by the District Collector before erecting the arch. Now that, the arch itself has been erected, we are of the view that the interest of justice would be subserved by directing the District Collector, Thanjavur, to consider the application stated to have been filed by the seventh respondent and pass orders on merits and as per law.

7.We direct the seventh respondent to forward a copy of the application for permission, stated to have been given earlier along with a copy of the order, so as to enable the District Collector to consider the matter on merits and as per law, as expeditiously as possible.



8.The Writ Petition is disposed of with the above direction.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The Government of Tamil Nadu,
rep. by its Chief Secretary,
Chennai - 9.
- 2.The Secretary to Government,
Public Works Department,
Secretariate,
Chennai - 600 009.
- 3.The Divisional Engineer,
Highways Department,
Thanjavur District, Thanjavur.
- 4.The District Collector,
Thanjavur District, Thanjavur.
- 5.The Block Development Officer,
Orathanadu Union Office,
Orathanadu, Thanjavur District.

+1cc to Mr.P.VADIVEL Advocate in SR. No.66063
+1cc to Mr.N.DILIP KUMAR Advocate in SR. No.65495
MR/RR
JS/SV/SAR.1/27.7.2017/3P-8C

ORDER MADE IN
W.P. (MD) No.3037 of 2016
14.07.2017