



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

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W.P(MD)No.5286 of 2016

and

W.M.P(MD)Nos.4731 and 4732 of 2016

Thankaraj

.. Petitioner

Vs.

1. The District Collector,
Nagercoil, Kanyakumari District.
2. The District Health Officer,
Nagercoil, Kanyakumari District.
3. The Director,
Pollution Control Board,
Nagercoil, Kanyakumari District.
4. The Executive Officer,
Valvachagoshtam Town Panchayat,
Valvachagoshtam, Kattathurai Post,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the fourth respondent in his proceedings Number 79/2015/A1, dated 04.02.2016 and quash the same as illegal and consequently direct the fourth respondent to issue proper licence to the petitioner to run the petitioner's Piggery Unit in accordance with law, within the time stipulated by this Court.

For Petitioner : Mr.C.Kishore

For Respondents 1 to 3 : Mr.M.Alagathevan,
Special Government Pleader.

For Respondent No.4 : Mr.R.Anandharaj

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to quash the impugned order passed by the fourth respondent in No.79/2015/A1, dated 04.02.2016, and direct the fourth respondent to issue proper licence to the petitioner to run piggery unit, within the time stipulated by this Court.



3.The case of the petitioner is that he is running a piggery unit in S.No.76/3, Valvachagoshtam Town Panchayat, Kaviyaloor Desom, Kalkulam Taluk, Kanyakumari District, without causing any health hazard to the general public. While so, the fourth respondent, issued eviction proceedings, dated 29.12.2015. Therefore, he made a representation dated 07.01.2016, to the fourth respondent, requesting them not to evict his piggery unit. Thereafter, the fourth respondent passed the impugned order, dated 04.02.2016, directing him to evict the unit. Hence, he applied for licence to run the unit, vide his application, dated 02.03.2016 and the same has not been considered so far. Therefore, the petitioner is before this Court with the aforesaid prayer.

4.The learned counsel for the petitioner would submit that the petitioner is having only four or five pigs in his residential area and he also applied for licence to run piggery unit and without conducting proper inspection, the fourth respondent straight away directed not to keep any pig, terming the particular area, as a farm.

5.The allegation against the petitioner is to the effect that the petitioner is illegally running a piggery unit activities without having any licence, which causes health hazards as well as pollution in that area. Therefore, this Court appointed Mr.S.Micheal Heldon Kumar, Advocate, as Advocate Commissioner to inspect the particular area and accordingly a report came to be filed, wherein it is stated as follows:

"4.I submit that, in the northern side of pig shed petitioner's house is situated which is hardly 25 meters from the pig shed, in the southern side there is no residential houses and has only rubber trees standing therein filed for a larger extent. In the eastern side of the piggery unit there is a residential house, one Mr.Sam Raj's house, which is 43 meters away from the pig shed and in between Mr.Sam Raj's house and piggery unit it is a rubber field. In the western side, there is on residential house, one Mr.Aries house, which is 34 meters away from the piggery unit and in between there is a rubber field. There is a Panchayat road having the width of 4.20 meters by name Varuvilai road opposite to petitioner's house. After that road there is a Anganwadi, which is situated 79 meters away from the piggery unit, which is in northern side.

5.I submit that there was no urine stagnation pit and no urine stagnation in and around the pig farm. It is learnt that the wastages of pig farm would be collected by the petitioner and would be disposed in his



coconut filed daily. There was also no foul smell enumerated from the pig farm beyond 25 meters length. Block Health Supervisor of Public Health Department opined that normally the pig farms and cattle sheds may spread diseases, but to the specific question, whether the present pig farm is likely to cause health hazard to the public, he does not give a specific answer but generalize it, by saying it may cause.

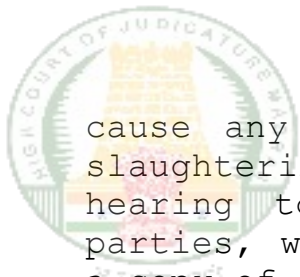
6.I submit that, Assistant Engineer, Pollution Control Board, on enquiry says that there was no pollution caused by the pig farm for time being or at present. The Revenue Inspector and Village Administrative Officer also opined on the same line. The enquiry The Executive Officer, Valvachagastam Panchayat, reveals that some complaints have been received by him from one Mr.Sam Raj and his family with regard to the piggery unit".

6.Taking advantage of the report filed by the Advocate Commissioner, the learned counsel appearing for the petitioner also submitted that the complaint made by one Sam Raj is nothing, but a false allegation, due to the First Information Report filed by the son of the petitioner against him, who is none other than his neighbour and since, the impugned order has been passed, without conducting proper verification of the actual and factual matrix, the same cannot survive.

7.The learned counsel appearing for the fourth respondent would specifically submit that slaughtering activity of pigs is going on without getting any proper licence and therefore, the fourth respondent has rightly passed the impugned order and hence, the impugned order requires no interference.

8.I have considered the rival submissions and perused the materials available on record.

9.According to the fourth respondent, slaughtering activity of pig is going on without any proper licence. The Advocate Commissioner inspected the place and filed his report, wherein it is stated that at present, there was no pollution. According to the petitioner, he is running a piggery unit without causing any health hazard to the general public and the impugned order came to be passed without conducting any inspection and he also made an application, dated 02.03.2016, for licence to run the piggery unit. Be that as it may, this Court, without going into the merits of the petitioner's claim, directs the fourth respondent to consider the application of the petitioner, dated 02.03.2016, ~~seeks for~~ to run piggery unit, and pass appropriate orders on its own merit and in accordance with law after getting an undertaking from the petitioner to the effect that he will not



cause any health hazard over the area and also not involve in slaughtering of pigs and also after affording due opportunity of hearing to the petitioner as well as any of the interested parties, within a period of six weeks from the date of receipt of a copy of this order.

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10. The writ petition is disposed of as above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

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Valvachagoshtam, Kattathurai Post,
Kanyakumari District.

+1cc to Mr.C.Kishore, Advocate Sr.No.88299

+1cc to Mr.R.Anandharaj, Advocate Sr.No.88057

SMN

VB/MR/KKR/SAR3/07/12/2017/4P/7C

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