



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.(MD) No.13971 of 2013 &
M.P.(MD).Nos.2 and 3 of 2013 &
M.P.(MD).Nos.1 and 2 of 2014

M.Joseph Benedict @ Jose

...Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary,
Department of Home,
Fort St. George, Chennai-600 009.

2.The High Court of Judicature at Madras,
Rep. by its Registrar General,
The High Court of Madras,
Chennai -600 104.

3.The Superintendent of Police,
Kanyakumari District at Nagercoil,
Kanyakumari District -629 001.

4.The Inspector of Police,
Land Grabbing Wing, Nagercoil,
Kanyakumari District- 629 002.

...Respondents

(R3 and R4 impleaded as per Order dated 27.08.2013 in M.P.(MD).
No.4 of 2013)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned G.O.Ms.No.451 (Home (Court-II), dated 11.08.2011 issued by the 1st respondent State Government, quash the same in so far as Sl.No.4 indicating the establishment of the Special Court at Tirunelveli for the District of Kanyakumari, and further direct the respondents to establish a Special Court for the District of Kanyakumari at Nagercoil.

For Petitioner

: Mr.S.Xavier Rajini

<https://hcservices.ecourts.gov.in/hcse/Pices/>

For Respondents

: Mr.S.Chandra Sekar for R1 & R3

Government Advocate

Mr.K.Samidurai for R2

**O R D E R**

[Order of the Court was made by **T.S.SIVAGNANAM, J**]

In this writ petition the petitioner has challenged G.O.Ms.No.451 (Home (Court-II), dated 11.08.2011, in and by which Special Courts for land grabbing cases were constituted and since no Special Courts were constituted for the District of Kanyakumari, all the land grabbing cases arising out of the Kanyakumari District were to be tried by the Special Court at Tirunelveli.

2. The petitioner's grievance is largely on the ground that the innocent people would be affected by travelling to Tirunelveli District to face Trial. The writ petition came to be filed and initially an interim order was granted stating that if the cases so far are not transferred, the same shall not be transferred.

3. As of now, the Hon'ble First Bench of this Court in the case of **R.Thamaraiselvan v. Government of Tamil Nadu** reported in **2015 (2) CTC 1**, quashed the impugned Government Orders. As against which, the Government has preferred an appeal before the Hon'ble Supreme Court and an order of interim stay is in operation. The case was lastly heard on 13.02.2017 and it has been posted for filing counter affidavit. The petitioner's concern is about the complainants who have lodged complaints of land grabbing and those cases which are languishing in the Special Courts at Tirunelveli, without any progress.

4. The learned counsel for the petitioner produced a copy of the order passed by this Court in Crl.O.P.No.19793 of 2015, dated 06.08.2015 in **J.Sekara vs. Pazhanidesigan and Ors.** wherein considering the fact that Special Leave petition is pending before the Hon'ble Supreme Court, this Court transferred all the cases to the Regular Court. We would have no hesitation to issue similar direction in this case also, if the Writ Petition had not been filed as a Public Interest Litigation. Therefore, unless and until the *defacto complainant* or the accused is before this Court, specific direction cannot be issued, nor this Court can give general direction in a Public Interest Litigation, without hearing the *defacto complaint* or the accused.

5. Since the matter is now seized of by the Hon'ble Supreme Court, we are of the view that the writ petition would be disposed of by observing that the relief that the petitioner would be entitled in this writ petition will be in terms of the decision of the Hon'ble Supreme Court in SLP No.60502 of 2015. Since stay has been granted by the Hon'ble Supreme Court, we direct the Registrar General, Madras High Court, Madras, to obtain appropriate orders from the Hon'ble the Chief Justice as to whether the cases which were transferred from District of Kanyakumari to the District of Tirunelveli could to be re-transferred to be tried before the



jurisdictional Courts and on orders being obtained appropriate instructions may be issued both to the Principal District Judge, Tirunelveli and the Principal District Judge, Kanyakumari District. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The State of Tamil Nadu
Rep. by its Secretary,
Department of Home,
Fort St. George, Chennai-600 009.
- 2.The Registrar General,
High Court of Judicature at Madras,
The High Court of Madras,
Chennai -600 104.
- 3.The Superintendent of Police,
Kanyakumari District at Nagercoil,
Kanyakumari District -629 001.
- 4.The Inspector of Police,
Land Grabbing Wing, Nagercoil,
Kanyakumari District- 629 002.

+1 CC TO M/S.XAVIER RAJINI,ADVOCATE,SR NO.51658

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.51741

jikr

MAS/SV-MMS:25.04.2017:3P-7C

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