



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED**

W.P.[MD].No.2571 of 2018

Subbayarkulam Paathukaaappu Eyakkam,
Rep by its Founder & General Secretary,
D.Johne, S/o.Dhason,
Door No.0/A14, Gandhinagar,
Puthukuyeruppu, Nagercoil 629 001,
Kanyakumari District.

: Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Nagercoil Municipality,
Rep by its Commissioner,
Nagercoil, Kanyakumari District.
3. The Chief Engineer,
Pubic Works Department,
Madurai Region, PWD Office,
Madurai 625 001.
4. The Executive Engineer,
[Kothaiyar Water Resource Wing],
Public Works Department,
PWD Office, Nagercoil,
Kanyakumari District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to take necessary steps to save and protect the Subbayarkulam at Nagercoil, Kanyakumari District from the present worst pollution condition, by considering the representation of the petitioner Iyakkam dated 27.01.2016.

For petitioner
For respondents 1,3&4
<https://hcservices.ecourts.gov.in/hcservices/>
For Respondent No.2

: Mr.R.Gowrishankar
: Mr.R.Sethuraman
Special Government Pleader
: Mr.P.Athimoolapandian
Standing Counsel

**O R D E R*************[Order of the Court was made by C.T.SELVAM, J.]**

Informing the pollution of a tank, namely, Subbayarkulam at Nagercoil, situated in S.F.No.F4/1, due to dumping of waste, growth of poisonous plants and improper maintenance, the petitioner Iyakkam has sought a Writ of Mandamus directing the respondents to take necessary steps to save and protect Subbayarkulam at Nagercoil, Kanyakumari District, by considering the representation dated 27.01.2016.

2. The learned Standing Counsel for the second respondent submits that the pollution of the tank had been caused owing to dumping of house waste by local residents and that efforts had already been taken to keep the tank clean through use of funds of Member of Legislative Assembly by putting up iron fencing around the said tank, which is now protected under the Scheme, named "Prime Minister's Clean India". The second respondent Municipality has initiated steps for laying underneath drainage pipes to connect the underground drainage system, but, the petitioner and some groups in the locality have agitated and stopped the work, demanding putting up of open drainage system. Paragraph Nos.6 and 7 of the affidavit of the second respondent reads as follows:-

"6. It is humbly submitted that before the formation and Registration of the petitioner's Eyakkam, our Municipality passed a resolution on 31.03.2017, as per resolution No.325, file No.,1/3871/2017 to rectify the drainage pipe and also to provide pipeline with the intention to store the excess water from the filter house into the Subbaiyarkulam Tank. E-Tender also accepted to execute the work through contractors on 13.04.2017 and work order also issued to one S.Chellam, Contractor, but work was stopped due to the agitation of the petitioner and some groups as stated supra.

7. It is humbly submitted that underground drainage system work is in progress within Nagercoil Municipality and the project of connecting the drainage pipeline within the disputes also comes under the purview of UGD. Since it needs some more time, we are initiating interim remedy to restrain the seepage of drainage water. Our Municipality passed a urgent resolution on 03.04.2018 and issued work order to the Contractor to put up leach 2 numbers of leach pit to remove the substances and waste water through the motor pump under the estimation of RS.65,000/-."



3. Learned counsel for the petitioner submits that the petitioner Iyakkam had made many usual suggestions in their representation dated 27.01.2016 and that the same may engage the attention of the authorities.

4. Recording the submission of the learned counsel for the petitioner that the petitioner body will not cause any difficulty to the contractor carrying out the work, as informed in Paragraph No.6 of the affidavit of the second respondent, extracted hereinabove, the Writ Petition shall stand closed, requiring the second respondent not to take an adversarial approach towards the petitioner Iyakkam and to consider the representation dated 27.01.2016. As the learned Standing Counsel for the second respondent informs that the second respondent Municipality is not in receipt of the representation, it is now open to the petitioner Iyakkam to forward a copy of the representation dated 27.01.2016 afresh. It is made clear that the respondents, being required to consider the representation of the petitioner Iyakkam, would no manner mean that they are bound thereby and the decision will rest with the authorities and on merits of the case. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Chief Engineer,
Public Works Department,
Madurai Region, PWD Office,
Madurai 625 001.
3. The Executive Engineer,
[Kothaiyar Water Resource Wing],
Public Works Department,
PWD Office, Nagercoil,
Kanyakumari District.

+ 1 CC TO Mr.R.GOWRI SHANKAR, ADVOCATE IN SR No. 76141
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76186

NB

TE/KAK/SAR-4 : 20/08/2018 : 3P/6C