



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE C.T.SELVAM

And

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

W.P (MD) No.16272 of 2018

and

W.M.P. (MD) No.14483 of 2018

Mr.S.Paramasivam

... Petitioner

vs.

1.State of Tamil Nadu,
Rep. by its Secretary,
Department of Rural Development and Panchayat Raj,
Secretariat, Chennai - 9.

2. The District Collector,
Office of the District Collectorate,
Dindigul, Dindigul District.

3. The Odanchathiram Municipality,
Rep. by its Commissioner,
Odanchathiram Taluk,
Dindigul District.

4. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Collectorate Campus, Dindigul District.

5.The Block Development Officer
(Village Panchayat),
Odanchathiram Union Office,
Odanchathiram Taluk,
Dindigul District.

6.Kethiyurambu Village Panchayat,
Rep. by its Special Officer,
Kethaiyurambu,
Odanchathiram Taluk,
Dindigul District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondent Nos.2 and 3 from constructing dumping yard at Survey Nos.465 and 478/2 in Kethaiyurambu Village, Odanchathiram Taluk, Dindigul District, without the approval of the sixth respondent.



For Petitioner : Mr.T.Lajapathi Roy
For R1, R2 & R4 to R6 : Mr.M.Rajarajan
Government Advocate
For R3 : Mr.P.Srinivas

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ORDER**(Order of the Court was made by C.T.SELVAM, J.)**

The petitioner has moved the present writ petition as a Public Interest Litigation stating that he and others of his village would be gravely affected, if a dumping yard is permitted to be put up at Survey Nos.465 and 478/2 in Kethaiyurambu Village, Odanchathiram Taluk, Dindigul District, without the approval of the sixth respondent, viz., Kethiyurambu Village Panchayat, Kethaiyurambu, Odanchathiram Taluk, Dindigul District.

2.The learned counsel for the petitioner relied on a Judgment of Division Bench of this Court in W.P.(MD)Nos.10641 to 10643 of 2009, etc. batch, dated 22.04.2010, wherein after referring to Section 134 of Tamil Nadu Panchayat Act, 1994, this Court has observed as follows:-

"22.Section 134(3) of the Tamil Nadu Panchayat Act, 1994, permits the Collector to exclude certain lands from the operation of the Act and to modify or cancel such exclusion by way of further notifications. However, there is a mandatory condition that before issuing such notification for exclusion or modification or cancellation, the village panchayat should be consulted. In a matter like this, consultation cannot be taken as consent. However, it does not mean that consultation is an empty formality.

23.Since the poramboke land has been in the possession of the panchayat, naturally, they exercise certain rights in respect of those lands. The property has been used only for public purpose. Therefore before resuming possession of such porambokes from the panchayat, Law requires that consultation should be made with the concerned panchayat. However, in the case on hand, effective consultation made by the District Collector was only after granting entry permission by the Government as per G.O.Ms.No.78, dated 23 February, 2009. Therefore mandatory consultation process was not resorted to by the District Collector before recommending the case to the Government. However, in view of the larger public interest involved in establishing garbage disposal plant and the developments which have taken place subsequently, coupled with the statement made by the learned Advocate General, we are of the view that no interference is called for in the action taken by the Collector culminating in issuing the order by the Government."



3.Mr.P.Srinivas, who represents the third respondent has submitted that the proposal is at a very nascent stage and pending consideration before the District Revenue Officer, as on date, with a request for allotment of appropriate land for the purpose of putting up a dumping yard. In the event of such officials concurrence, the matter would be forwarded to the Collector and on its finding favourable consideration of such authority, Pollution Control Board clearance necessarily is to be obtained.

4.We note that Section 134 of the Tamil Nadu Panchayt Act, 1994, applies not in respect of any and every category of land, but in respect of ryotwari poramboke tracts, which are used as grazing grounds, threshing floors, burning and burial-grounds, cattle-stands, cart stands and topes

5.As it has been brought to our notice that the very proposals are at a very nascent stage, we direct the second respondent to consider and pass orders on the representations of the petitioner, dated 19.06.2018 and 03.07.2018, on merits, within a period of eight weeks, as and when the matter arises for consideration. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Secretary to Government of Tamil Nadu,
Department of Rural Development and
Panchayat Raj, Secretariat, Chennai - 9.
2. The District Collector,
Office of the District Collectorate,
Dindigul, Dindigul District.
3. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Collectorate Campus, Dindigul District.
4. The Block Development Officer (Village Panchayat),
Odanchathiram Union Office,
Odanchathiram Taluk, Dindigul District.
5. The Special Officer,
Kethiyurambu Village Panchayat,
Kethiyurambu, Odanchathiram Taluk,
Dindigul District.



+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.75093
+1cc to Mr.P.Srinivas, Advocate Sr.No.75208
+1cc to Spl.Government Pleader Sr.No.74875

RJ2
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VB/KAK/SAR4/10.08.2018/4P/9C

W.P (MD) No.16272 of 2018
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