



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2018

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CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**  
**and**  
**THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM**

W.P. (MD) .Nos.21779 of 2017, 19682 of 2016  
and 21023 of 2014

and

W.M.P. (MD) .Nos.18077 of 2017, 14197 of 2016  
and 4367 of 2016

and

M.P. (MD) .No.2 of 2014

**W.P. (MD) .No.19682 of 2016:**

R.Kala  
Petitioner

...

**Vs.**

1. Killiyoor Town Panchayat,  
Killiyoor, Represented by  
The Executive Officer.
2. V.Raja Rethnam,  
President,  
Killiyoor Town Panchayat,  
Killiyoor,  
Thozhayavattam (Post),  
Kanyakumari District.
3. The Assistant Director of Town Panchayats,  
Nagercoil,  
Kanyakumari District.
4. T.Vincent
5. Justin George Kumar

(R4 and R5 are impleaded vide Court order dated 21.09.2017  
in W.M.P. (MD) .No.5877 of 2017) ... Respondents



of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the first respondent dated 26.09.2016 and quash the same.

For Petitioner : Mr.N.Dilip Kumar  
For Respondents 1 and 2 : Mr.K.P.Krihna doss  
For Respondents 4 and 5 : Mr.G.M.Xavier  
For 3<sup>rd</sup> Respondent : Mr.S.Dhayalan  
Government Advocate

**W.P. (MD) .No.21023 of 2014:**

R.Kala ... Petitioner

**Vs.**

1. Killiyoor Town Panchayat,  
Killiyoor, Represented by  
The Executive Officer.
2. The Assistant Director of Town Panchayats,  
Nagercoil,  
Kanyakumari District.
3. Vincent
4. Justin George Kumar

R3 and R4 are impleaded vide  
Court order dated 26.11.2015 in  
M.P. (MD) .No.1 of 2015)

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating the impugned proceeding of the first respondent dated 25.09.2014 in Na.Ka.No.267 of 2014 and subsequent proceedings of the first respondent dated 25.11.2014 and 04.12.2014 both passed in Na.Ka.No.382 of 2013 and quash them.

For Petitioner : Mr.N.Dilip Kumar  
For 1<sup>st</sup> Respondent : Mr.Aayiram K.Selvakumar  
For 2<sup>nd</sup> Respondent : Mr.S.Dhayalan  
Government Advocate  
For Respondents 3&4 : Mr.H.Thayumanaswamy

**W.P. (MD) .No.21779 of 2017:**



Y.Christhu Dhas

... Petitioner

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Vs.

1. The District Collector,  
Kanyakumari District,  
Kanyakumari.
2. The Director of Town Panchayat,  
O/o. The Director of Town Panchayat,  
Nagercoil,  
Kanyakumari District.
3. The Deputy Director of Public Health Services,  
O/o, The Deputy Director of public Health Services,  
Krishan Kovil, Nagercoil,  
Kanyakumari District.
4. The Tahsildhar,  
Vilavancode Taluk,  
Kanyakumari District.
5. The Killiyur Town Panchayat,  
Represented by its Special Officer,  
Killiyoor, Tholayavattam,  
Kanyakumari District.
6. The Superintendent of Police,  
O/o.The Superintendent of Police,  
Nagercoil, Kanyakumari District.
7. The Inspector of Police,  
Karungal Police Station,  
Kanyakumari District.

8. R.Kala

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 7 to remove the unauthorised construction made by the respondent No.8 namely Kala Pig Farm in Survey No.63/4, 63/1A at Mullanganavillai Village, Vialavancode Taluk, KanyaKumari District and consequently forbear the respondent No.8 from operating the piggery farm without obtaining prior approval from the respondent No.5 Town Panchayat within the time frame stipulated by this Court.



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For Petitioner : Mr.T.Lajapathi Roy  
For Respondents  
1 to 4 & 6 and 7 : Mr.S.Dhayalan  
Government Advocate  
For 5<sup>th</sup> Respondent : Mr.R.Anandharaj  
For 8<sup>th</sup> Respondent : Mr.N.Dilipkumar

**COMMON ORDER**

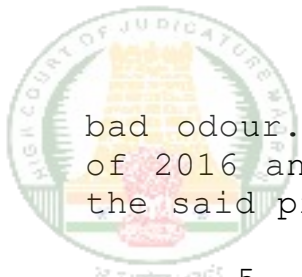
**(Order of the Court was made by T.S.SIVAGNANAM, J.)**

Heard Mr.N.Dilip Kumar, learned counsel appearing for the petitioner in W.P.(MD) Nos. 19682 of 2016 and 21023 of 2014 and Mr.Lajapathi Roy appearing for the petitioner in W.P.(MD)No.21779 of 2017 and Mr.Krishnadoss, learned counsel appearing for the respondents 1 and 2 and Mr. Dhayalan, learned Government Advocate appearing for the third respondent and Mr.G.M.Xavier, learned counsel appearing for the respondents 4 and 5 in W.P.(MD) No.19682 of 2016 and Mr.Aayiram K.Selvakumar, learned counsel appearing for the first respondent and Mr.S.Dhayalan, learned Government Advocate appearing for the second respondent and Mr.H.Thayumanaswamy, learned counsel appearing for the respondents 3 and 4 in W.P.(MD) No.21023 of 2014 and Mr.Dhayalan, learned Government Advocate appearing for the respondents 1 to 4 and 6 and 7 and Mr. R.Anandharaj, learned counsel appearing for the fifth respondent and Mr.N.Dilip Kumar, learned counsel appearing for the eighth respondent in W.P.(MD) No.21779 of 2017.

2. The Writ Petitions in W.P.(MD) Nos.19682 of 2016 and 21023 of 2014 were filed by Mrs.R.Kala, w/o Sundersingh, to quash the impugned proceedings of the first respondent dated 25.09.2014 and subsequent proceedings dated 25.11.2014 and 04.12.2014 and further proceedings dated 26.09.2016. The Writ Petition W.P.No.21779 of 2017 has been filed by one Y.Christhu Dhas to remove the construction made by Kala Pig Farm. Since the issue involved in the writ petitions are one and the same, they are disposed of by this common order.

3. It is seen that this Court, while hearing the Writ Petitions filed by Tmt.R.Kala, has appointed Advocate Commissioners and the two reports, which were received, are sufficient to dismiss the Writ Petitions filed by her.

4. What is important to note is that she has not secured any license required for running the pig farm since the condition imposed by the authorities are very stringent, especially that pigs would spread Swine Flu. The report of the Advocate Commissioners show that the farm is not maintained in a hygienic manner. Some of the residents of the area, who are before this Court, would state that it is impossible to live in the area with



bad odour. It is wonder how the petitioner in W.P.(MD) Nos.19682 of 2016 and 21023 of 2014 along with her children is residing in the said premises.

5. Be that as it may, the petitioner Tmt.R.Kala is running the pig farm without license and before passing the impugned proceedings, no notice has been issued by the official respondents. It is not clear as to whether the land in question, where the petitioner is running the pig farm, is permissible to be used for such purpose. This question was never considered. Because the petitioner never approached the authorities for licence. Thus, considering totality of the circumstances and as predominant public interest is involved in the matter and equally taking into consideration the plight of the writ petitioner Tmt.R.Kala and for taking action by the official respondents, we dispose of the writ petitions on the following terms:

i) Tmt.K.Kala is directed to shift all the pigs in the pig farm to a location far away from the present location, preferably to a non-objectionable site, within a period of 30 days from the date of receipt of a copy of this order.

ii) The shifting should be in entirety and no part of the pig farm presently in existence should be used for rearing pigs or for allied purposes. Upon shifting, the petitioner is directed to apply for license to run a pig farm and other allied purposes. Before taking up the application for consideration, the authorities should ensure that there is no rearing of pigs in the present location. Thereafter, the application shall be considered on merits and in accordance with law.

iii) The learned Government Advocate appearing for the respondent municipality would submit that there are several licensing authorities. Therefore, we direct the petitioner to secure license, but, since there are various licensing authorities we do not fix time limit for the application to be considered. On receipt, the same shall be considered in accordance with law as expeditiously as possible. The pig farm is directed to be shifted to a new location preferably within 6 months from the date of the receipt of applications. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant

Registrar

(CO)

/True Copy/

To:



- 1.The District Collector,  
Kanyakumari District,  
Kanyakumari.
  - 2.The Director of Town Panchayat,  
O/o. The Director of Town Panchayat,  
Nagercoil, Kanyakumari District.
  - 3.The Deputy Director of Public Health Services,  
O/o, The Deputy Director of public Health Services,  
Krishan Kovil, Nagercoil, Kanyakumari District.
  - 4.The Tahsildhar,  
Vilavancode Taluk,  
Kanyakumari District.
  - 5.The Superintendent of Police,  
O/o.The Superintendent of Police,  
Nagercoil,  
Kanyakumari District.
  - 6.The Inspector of Police,  
Karungal Police Station,  
Kanyakumari District.
  - 7.The Assistant Director of Town Panchayats,  
Nagercoil,  
Kanyakumari District.
- + 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 50021  
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50562  
+ 1 CC TO Mr.H.THAYUMANASAMY, ADVOCATE IN SR No. 50301  
+ 3 CC TO Mr.N.DILIP KUMAR, ADVOCATE IN SR Nos. 49985 TO 49987

VSG/CM

TE/SV-MMS/SAR-2 : 28/02/2018 : 6P/14C

W.P. (MD) .Nos.21779 of 2017, 19682 of 2016  
and 21023 of 2014 and  
W.M.P. (MD) .Nos.18077 of 2017, 14197 of 2016  
and 4367 of 2016 and  
M.P. (MD) .No.2 of 2014  
20.02.2018