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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.[MD]No.17533 of 2013

and

M.P.[MD]Nos.1 and 2 of 2013

Dr.R.S.Lal Mohan

: Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

3.The District Forest Officer,
Kanyakumari District,
Nagercoil.

4.The Executive Officer,
Ganapathipuram Town Panchayat,
Ganapathipuram,
Kanyakumari District.

5.The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

6.P.Palpandian

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the order of the second respondent vide மு.மு.அ 5/2358/2011, dated 02.01.2013 and the consequential auction notice of the fourth respondent vide ந.க.எண் 139/2013 dated 11.10.2013 and quash the same.

For Petitioner

: Mr.C.T.Perumal

For Respondents 1to3

: Mr.N.Shanmugaselvan

Additional Government Pleader



For Respondents 4&5 : No Appearance
For Respondent No.6 : No Appearance

ORDER

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

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The challenge in this Writ Petition is to the order dated 02 January, 2013 on the file of the Revenue Divisional Officer, Nagercoil and the consequential auction notice issued by the Executive Officer, Ganapathipuram Town Panchayat, calling for bids to cut and remove a 250 years old Banyan tree in Survey No.660/4, Ward No.4, Allencottai, Neendakarai B Village, Kanyakumari District.

2. The petitioner is stated to be a former Principal Scientist, Indian Council of Agricultural Research, Government of India. It is the grievance of the petitioner that without any kind of sensitivity, the Revenue Divisional Officer, Nagercoil, took a decision to cut and remove a 250 years old Banyan tree just for the purpose of helping a nearby land owner.

3. The Revenue Divisional Officer appears to have taken a decision to cut and remove the Banyan tree, pursuant to a representation submitted by the sixth respondent. The sixth respondent alleged that the branches of the said Banyan tree were touching the roof of his house and as such, it should be cut and removed. There was no enquiry conducted by the Revenue Divisional Officer before taking a decision to cut the Banyan tree.

4. The documents produced by the petitioner indicate that there were no residential houses adjacent to the place where the Banyan tree is standing.

5. Even though sufficient time was granted to the sixth respondent to appear before this Court and contest the matter, there was no appearance on his behalf. We have, therefore, perused the entire documents available on record. We are satisfied that there is no need to cut and remove the Banyan tree situate in Survey No.660/4, Ward No.4, Allencottai, Neendakarai B Village, Kanyakumari District. The second respondent, in a very mechanical manner, directed the removal of Banyan tree just to satisfy the sixth respondent, who is stated to be an influential person at Allencottai in the district of Kanyakumari.

6. We quash the order dated 02 January, 2013, on the file of the second respondent and the auction notice dated 11 October, 2013, issued by the fourth respondent. We restrain the respondents 1 to 5 from cutting and removing the Banyan tree situate in Survey No.660/4, Ward No.4, Allencottai, Neendakarai B Village, Kanyakumari District, as it is providing a green cover to the area in question.



7. The Writ Petition is allowed as indicated above. No costs. Consequently, the connected miscellaneous petitions are closed.

SD

ASSISTANT REGISTRAR (CS I)

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SUB ASSISTANT REGISTRAR (CS II)

SML

To

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Revenue Divisional Officer,
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Ganapathipuram,
Kanyakumari District.

5. The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

1CC TO MR. C.T.PERUMAL, ADVOCATE SR 96135

1CC TO THE SPL GOVT PLEADER SR 96335

KK RSK SAR 2

28 12 2018

3P 8C

Order made in
W.P. [MD] No. 17533 of 2013

Dated: **20.11.2018**