

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6897 of 2018

B.Rudhramoorthy

...Petitioner

Vs

1.The Government of Tamil Nadu
rep.by its Secretary
Revenue Department,
Secretariat, Fort St.George, Chennai-600 009.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Executive Officer,
Town Panchayat,
Thiruninravur-602 024.

4.R.Murali Krishnan

5.The Inspector of Police,
T-11, Thiruninravur Police Station,
Thiruninravur-602 024.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the third and fourth respondents to remove the Bus Shelter put up in front of the petitioner's plot comprised in S.No.78/4, situated at Gomathipuram, Thiruninravoor Village, to an extent of 653 sq.ft.at Ward No.9, Opposite E.B.Office.

For Petitioner : Mr.M.Prabakar

For Respondents: Mr.B.Anand, Government Advocate
for R1, R2 and R5

Mr.R.Neelakandan,
Government Advocate for R3

No appearance for R4

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus directing the third and fourth respondents to remove the Bus Shelter put up in front of the petitioner's plot comprised in S.No.78/4, situated at Gomathipuram, Thiruninravoor Village, to an extent of 653 sq.ft.at Ward No.9, Opposite E.B.Office.

2.According to the petitioner, the petitioner has purchased a plot to develop it commercially by putting up a building. The third respondent has put up a bus shelter in front of the petitioner's plot. Hence this writ petition has been filed by the petitioner with the aforesaid prayer.

3.The learned Government Advocate appearing for the respondents 1, 2 and 5, on the basis of the counter affidavit filed on behalf of the third respondent, has submitted that all the vehicles including public transport are passing through the Poonamallee to Jamin Korattur High Road, which is lying in front of the petitioner's property. The third respondent has granted tender to the fourth respondent to construct 16 feet bus shelter in front of the petitioner's property. The allegation of the petitioner that if the bus shelter is constructed, he cannot freely enter into his property has been denied by stating that the plot of the petitioner was approved as commercial property and only because of the same, he purchased the same by paying higher price.

4.The learned Government Advocate, on instructions, has also submitted that there is a 6 feet free space available between the petitioner's plot and the bus shelter and hence the allegation of the petitioner that he cannot move to his plot freely, cannot be accepted.

5.The learned Government Advocate, further submitted that the petitioner has already filed a writ petition before this Court in W.P.No.3472 of 2018 seeking for a direction forbearing the third and fourth respondents herein from putting up the bus shelter in front of the petitioner's plot and the same was disposed of on 06.03.2018, by passing the following order:

"2.The learned Special Government Pleader appearing for the respondents submitted that there was already a bus shelter in front of the land of the petitioner. Since it was damaged, the Panchayat has constructed a new bus shelter at the estimated cost of Rs.3,30,000/- and it was already opened for the public

use.

3.In the light of the above submission, this writ petition is closed as no further adjudication is necessary in this writ petition and liberty is given to the petitioner to work out his remedy in the manner known to law. No costs. No costs. Consequently, connected miscellaneous petition is closed."

6.The learned Government Advocate, further submitted that even though W.P.No.3472 of 2018 has been closed observing that no further adjudication is necessary, the present writ petition has been filed by the petitioner to remove the bus shelter in question.

7.Heard the learned counsel on either side and perused the materials available on record.

8.According to the learned counsel for the petitioner, if the bus shelter constructed in front of the petitioner's plot is not removed, the petitioner cannot enter freely into his property for the reasons stated in the affidavit. But, on instructions, the learned Government Advocate has submitted that there is a 6 feet gap between the petitioner's plot and the bus shelter. Further, permission to construct the bus shelter has been granted only taking into account the vehicles passing through the Poonamallee to Jamin Korattur High Road, in public interest. Therefore, the allegation of the petitioner cannot be accepted and the writ petition is liable to be dismissed.

9.In the result, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KM
To

1.The Secretary to Government,
Government of Tamil Nadu
Revenue Department,
Secretariat, Fort St.George, Chennai-600 009.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

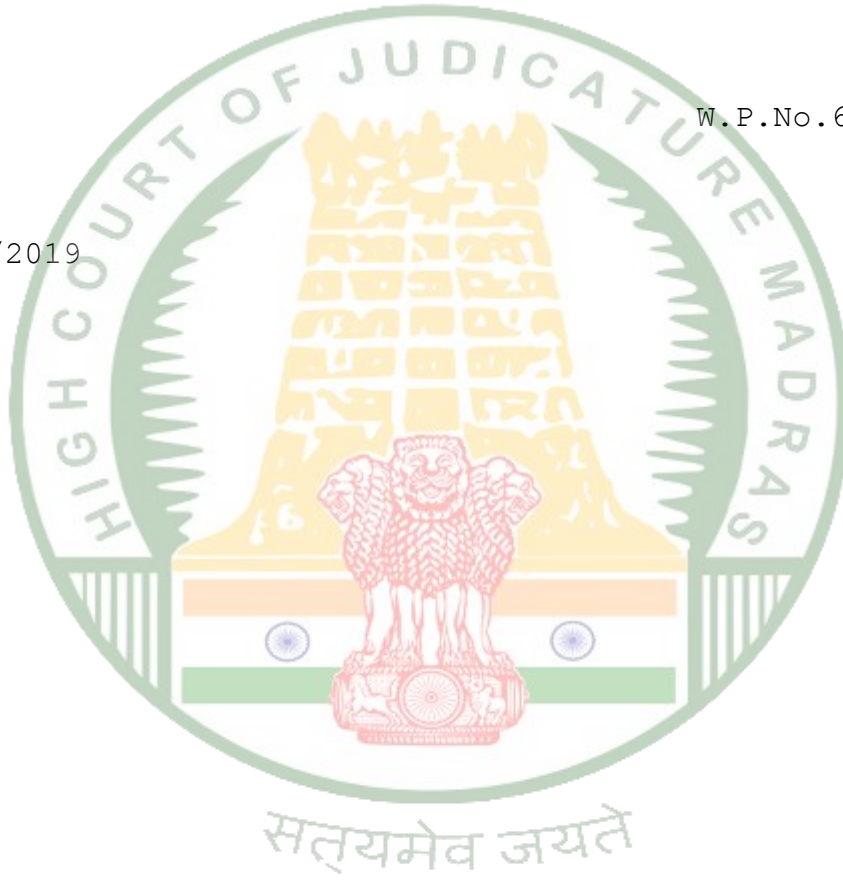
3.The Executive Officer,
Town Panchayat,
Thiruninravur-602 024.

4.The Inspector of Police,
T-11, Thiruninravur Police Station,
Thiruninravur-602 024.

+2cc to Mr.M.Prabakar, Advocate Sr.16496
1cc to the Government Pleader Sr.16033

W.P.No.6897 of 2018

ks[co]
srg 13/03/2019



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