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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR  
and  
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.15096 of 2017

K.Ilaiyaraja

...Petitioner

Vs

1. The District Collector,  
Tiruvallur District at Tiruvallur
2. The Tahsildar,  
Maduravoil Taluk,  
Tiruvallur District.
3. The Commissioner,  
Thiruverkadu Municipality  
Tiruvallur District.
4. The Inspector of Police  
Maduravoil Police Station,  
Tiruvallur District.

...Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein particularly the third respondent herein viz., the Commissioner, Thiruverkadu Municipality, Tiruvallur District to consider the representation of the petitioner herein dated 17.08.2016 forthwith.

For Petitioner : Mr.M.Gnanasekar  
for M/s.C.S.Rajalakshmi

For Respondents: Mr.E.Manoharan,  
Additional Government Pleader  
for R1, R2 & R4  
Mr.R.Mohandoss for R3



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## O R D E R

[Order was delivered by SUBRAMONIUM PRASAD,J]

The petitioner has sought for issuance of a Writ of Mandamus directing the respondents herein particularly the third respondent herein viz., the Commissioner, Thiruverkadu Municipality, Tiruvallur District to consider the petitioner's representation dated 17.08.2016.

2. Alleging that various lorries bearing Registration Nos.TN 22 A 6696, PBP Transport, TN 04 V 2399, TN 02 Y 2131, TN 28 A 9526, TN 07 AZ 9615, TN 20 BJ 5900, TN 20 CX 5907, NND Natesan Transport, TN 20 CV 2777, TN 01 P 9311 and TN 10 S 9950 are collecting drainage and sewerage water from various places and dumping them at Soosaiyanagar, Numbal Village, the petitioner by way of this Public Interest Litigation has approached this Court for issuance of a writ of Mandamus directing the respondents herein and more particularly the Commissioner, Thiruverkadu Municipality, Thiruvallur District, 3rd respondent herein, to consider the representation dated 17.08.2016 given by the petitioner.

3. According to the petitioner, the above said lorries have been indulging in collecting drainage and sewerage water from various places and dumping them in Soosaiyanagar, Numbal Village. The learned counsel for the petitioner contended that this is being done about 200 times in a day. It is further stated that on account of dumping of the drainage and sewerage water in the area, there is a very bad odour in the entire area and that the people living in that area have become prone to diseases like Malaria, Dengue etc., The petitioner states that he has given a representation to the third respondent on 17.08.2016, but no action was taken. He has therefore, filed the instant writ petition.

4. Notice was ordered by this Court on 19.06.2017. On 03.07.2019 this Court passed the following order:-

"No representation for the petitioner.

2. Alleging that drainage and sewerage water collected from various places have been dumped near a company viz., AS Shipping company situated at Soosaiyanagar, Numbal Village and that lorries bearing No.TN04V 2399, TN02Y 2131, TN28A 9526, TN07 AZ 9615,



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TN20BJ 5900, TN20 CX 5907, AND NATESAN TRANSPORT, TN20 CV 2777, TN01P 9311 AND TN10S 9959, were used for such purpose and due to the above, residents of Numbal village are affected with air pollution, bad smell and spread of diseases like malaria, dengue, petitioner is stated to have sent a representation dated 17.08.2016 to the respondents. Further contending that no action is taken on the representation dated 17.08.2016, instant writ petition is filed for a mandamus directing the respondents in particular, Commissioner, Thiruverkadu Municipality, Thiruvallur District, to take action on the said representation. Petitioner has also enclosed few photographs in the typed set of paper.

3. However, on the basis of the proceedings in RC No.2437/2016/A1 dated 02.01.2017 of the Revenue Divisional officer, Ambattur addressed to the Commissioner, Thiruverkadu Municipality, Thiruverkadu and another proceedings of the Commissioner, Thiruverkadu Municipality in RC.No.1562/2016/H1 dated 05.01.2017 addressed to the Revenue Divisional Officer, Ambattur, Mr.R.Mohandoss, learned counsel for the 3<sup>rd</sup> respondent submitted that action has been taken against the owner of the lorry bearing Regn. No.TN01P4311 under Sections 41 and 44 of the Tamil Nadu Public Health Act, 1939, said vehicle has been seized, and fine imposed. He further submitted that in respect of other vehicles alleged to have been used for the purpose of removal of garbage and dumping, action is also taken and that he would submit details.

4. The action taken should be supported with affidavit and documents.

5. Post on 05.07.2019 in the motion list.

5. The learned counsel for The Commissioner, Thiruverkadu Municipality Thiruvallur District/third respondent has filed his counter and various documents. Along with the counter, the third respondent has filed a chart showing the fine amount collected from the offending lorry owners . The same reads as follows:-

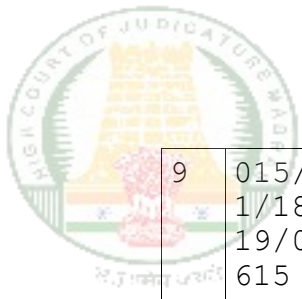
Thiruverkadu Municipality  
Service Fees Register

From Date: 01/Apr/2018; To Date:18/Jun/2019; Service Type:  
Receipt, Service Category : Miscellaneous Receipts, Service.



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| Sl<br>No. (1) | Service<br>Request<br>No. (2)      | Date<br>(3)                        | Service<br>Name<br>(4)               | Applic<br>ant<br>Name<br>(5)          | Vehic<br>le<br>Numbe<br>r<br>(6) | Mobile<br>No.<br>(7) | Ward<br>(8) | Amoun<br>t<br>(Rs.)<br>(9) | Pay<br>men<br>t<br>Mod<br>e<br>(10) |
|---------------|------------------------------------|------------------------------------|--------------------------------------|---------------------------------------|----------------------------------|----------------------|-------------|----------------------------|-------------------------------------|
| 1.            | 015/01/<br>1/18-<br>19/0002<br>083 | 31-May-<br>2018<br>03:35:5<br>3 PM | Other<br>Income-<br>Other<br>Income  | Vicky<br>Nadesa<br>n<br>Transp<br>ort | TN-<br>02Y-<br>2131              | 9941256<br>868       | Ward<br>-15 | 2000                       | Cas<br>h                            |
| 2             | 015/01/<br>1/18-<br>19/0002<br>117 | 01-Jun-<br>2018<br>11:03:2<br>3 AM | Other<br>Income-<br>Other<br>Income  | PBP<br>Transp<br>ort                  | TN-<br>09F-<br>6125              | 9940517<br>760       | Ward<br>-08 | 2000                       | Cas<br>h                            |
| 3             | 015/01/<br>1/18-<br>19/0003<br>145 | 18-Jun-<br>2018<br>03:28:0<br>2 PM | Other<br>Income-<br>Other<br>Income  | SAS<br>Transp<br>ort                  | TN-<br>AT-<br>4105               | 7299178<br>282       | Ward<br>-15 | 2000                       | Ca<br>sh                            |
| 4             | 015/01/<br>1/18-<br>19/0003<br>146 | 18-Jun-<br>2018<br>03:30:0<br>4    | Other<br>Income<br>- Other<br>Income | SAS<br>Transp<br>ort                  | TN-<br>20AE-<br>0730             | 9710737<br>488       | Ward<br>-15 | 2000                       | Ca<br>sh                            |
| 5             | 015/01/<br>1/18-<br>19/0005<br>829 | 06-Aug-<br>2018<br>03:23:3<br>7 PM | Other<br>Income-<br>Other<br>Income  | P.Sant<br>hkumar                      | TN-<br>25-<br>82707              | 9840896<br>088       | Ward<br>-04 | 5000                       | Cas<br>h                            |
| 6             | 015/01/<br>1/18-<br>19/0007<br>481 | 06-Sep-<br>2018<br>10:13:1<br>6 AM | Other<br>Income-<br>Other<br>Income  | SAS<br>Transp<br>ort                  | TN-<br>20AE-<br>0730             | 9710737<br>488       | Ward<br>-15 | 5000                       | Cas<br>h                            |
| 7             | 015/01/<br>1/18-<br>19/0007<br>791 | 12-Sep-<br>2018<br>05:42:4<br>8 PM | Other<br>Income-<br>Other<br>Income  | SAS<br>Transp<br>ort                  | TN-2-<br>AE-<br>0730             | 9710737<br>488       | Ward<br>-15 | 8000                       | Cas<br>h                            |
| 8             | 015/01/<br>1/18-<br>19/0008<br>261 | 25-Sep-<br>2018<br>04:39:0<br>9 PM | Other<br>Income-<br>Other<br>Income  | Jagan-<br>B                           | TN-<br>22B-<br>9297              | 8021833<br>20        | Ward<br>-08 | 10000                      | Cas<br>h                            |



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|    |                                     |                                    |                                     |                                        |                      |                |             |       |          |
|----|-------------------------------------|------------------------------------|-------------------------------------|----------------------------------------|----------------------|----------------|-------------|-------|----------|
| 9  | 015/01/<br>1/18-<br>19/0010<br>615  | 26-Nov-<br>2018<br>02:17:0<br>9 PM | Other<br>Income-<br>Other<br>Income | Vicky<br>Nadesa<br>n<br>Transp<br>ort  | TN-<br>04V-<br>2399  | 9941256<br>868 | Ward<br>-15 | 20000 | Cas<br>h |
| 10 | 015/01/<br>1/18-<br>19/0010<br>617  | 26-Nov-<br>2018<br>02:21:5<br>8 PM | Other<br>Income-<br>Other<br>Income | Vicky<br>Nadesa<br>n<br>Transp<br>ort  | TN-<br>02Y-<br>2131  | 9941256<br>868 | Ward<br>-15 | 20000 | Cas<br>h |
| 11 | 015/01/<br>1/18-<br>19/0010<br>616  | 26-Nov-<br>2018<br>02:21:0<br>1 PM | Other<br>Income-<br>Other<br>Income | Vicky<br>Nadesa<br>n<br>Transp<br>ort  | TN-<br>01P-<br>4311  | 9941256<br>868 | Ward<br>-15 | 20000 | Cas<br>h |
| 12 | 015/01-<br>1/18-<br>19/0010<br>750  | 27-Nov-<br>2018<br>01:05:4<br>2 PM | Other<br>Income-<br>Other<br>Income | SAS<br>Transp<br>ort                   | TN-<br>02H-<br>3555  | 9710737<br>488 | Ward<br>-15 | 10000 | Cas<br>h |
| 13 | 015/01/<br>1/18-<br>19/0014<br>956  | 23-Jan-<br>2019<br>04:38:3<br>9 PM | Other<br>Income-<br>Other<br>Income | PBP<br>Transp<br>ort                   | TN-<br>20B-<br>7799  | 9940517<br>760 | Ward<br>-08 | 40000 | Cas<br>h |
| 14 | 015/02/<br>01/18-<br>19/0000<br>056 | 01-Feb-<br>2019<br>04:26:3<br>5 PM | Other<br>Income-<br>Other<br>Income | R.Yuva<br>raj                          | TN-<br>18F-<br>4010  | 0551212<br>305 | NA          | 30000 | Cas<br>h |
| 15 | 015/02/<br>01/18-<br>19/0000<br>069 | 01-Feb-<br>2019<br>05:37:3<br>7 PM | Other<br>Income-<br>Other<br>Income | Deepan<br>Nadesa<br>nTrans<br>port     | TN-<br>20j-<br>5900  | 9941256<br>868 | Ward<br>-08 | 30000 | Cas<br>h |
| 16 | 015/02/<br>01/18-<br>19/0000<br>518 | 11-Feb-<br>2019<br>02:38:5<br>4 PM | Other<br>Income-<br>Other<br>Income | PBP<br>Transp<br>ort                   | TN-<br>09F-<br>6125  | 9940617<br>760 | Ward<br>-08 | 30000 | Cas<br>h |
| 17 | 015/02/<br>01-18-<br>19/0000<br>664 | 14-Feb-<br>2019<br>03:37:3<br>9 PM | Other<br>Income-<br>Other<br>Income | Deepan<br>Nadesa<br>n<br>Transp<br>ort | TN-<br>07AZ-<br>9615 | 9941256<br>868 | Ward<br>-08 | 5000  | Cas<br>h |
| 18 | 015/02/<br>01-18-<br>19/0000<br>665 | 14-Feb-<br>2019<br>03:39:3<br>2 PM | Other<br>Income-<br>Other<br>Income | Deepan<br>Nadesa<br>n<br>Transp<br>ort | TN-<br>20J-<br>5900  | 9941256<br>868 | Ward<br>-08 | 5000  | Cas<br>h |



|    |                         |                         |                           |                          |              |            |          |        |      |
|----|-------------------------|-------------------------|---------------------------|--------------------------|--------------|------------|----------|--------|------|
| 19 | 015/02/01/18-19/0000666 | 14 Feb-2019 03:41:10 PM | Other Income-Other Income | Deepan Nadesan Transport | TN-20CX-5907 | 9941256868 | Ward -08 | 5000   | Cash |
| 20 | 015/02/01/18-19/0000672 | 14-Feb-2019 04:16:25 PM | Other Income-Other Income | Deepan Nadesan Transport | TN-2-CU-2777 | 9941256868 | Ward -08 | 5000   | Cash |
| 21 | 015/02/01/18-19/0000673 | 14-Feb-2019 04:18:26 PM | Other Income-Other Income | Deepan Nadesan Transport | TN-105-9959  | 9941256868 | Ward -08 | 5000   | Cash |
|    |                         |                         |                           | Total                    |              |            |          | 261000 |      |

Sd/- Commissioner  
Thiruverkadu Municipality.

6. A perusal of the said chart would show that all the lorries involved in the above said acts, belonged to the Owners of Transport vehicle whose names are reflected in 5th column. They have been booked by the Commissioner, Thiruverkadu Municipality. The 3rd respondent has also filed a counter stating that a fine of Rs.2,61,000/- have been collected from the various lorry owners. It is also stated that the vehicles are being seized and handed over to T4 Madhuravoyal Police Station.

7. The acts which had been committed by the lorry owners, amounts to violation of Public Health Act. Section 34 & 35 of the Public Health Act reads as under:-

34. Sullage or sewage not to be left out into streets

No person having control over any building or land shall cause or allow-

(a) the water of any sink, sewer, latrine, or sanitary convenience, or any other liquid or other matter which is, or is likely to become offensive, to run or drain into or to be thrown or put upon, any street or open space or to soak through any external wall; or

(b) any offensive matter from any sewer, latrine or sanitary convenience, to run, drain or be thrown into a surface drain in any street.

35. Injurious refuse not to be discharged into public drains

No person shall, save as may be generally or specially prescribed, throw, empty, or turn, or suffer



or permit to be thrown, emptied or turned or to pass, into any public drain or into any drain communicating with a public drain-

(a) any manner likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of such contents; or

(b) any liquid being refuse or steam or other liquid which is either alone or in combination with the contents of the drain, dangerous, or the cause of a nuisance, or prejudicial substance.

Section 3 (25) of the Public Health Act, defines Nuisance which reads as under:-

(25) "Nuisance" includes any act omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health or property of the public or the people in general who dwell or occupy property in the vicinity, or persons who may have occasion to use any public right.

Section 134 of the Public Health Act, provides for Penalties for offences against Act, etc.

(1) Whoever-

(a) contravenes any or the provisions or this Act specified in the first and second columns of Schedule I; or

(b) contravenes any rule or order made under any of the

provisions so specified; or

(c) fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him, under or in pursuance of any of the said provisions shall be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of-

(a) contravening any of the provisions of this Act specified in the first and second columns of Schedule II; or

(b) contravening any rule or order made under any of the provisions so specified; or

(c) failing to comply with any direction lawfully given to him, or any requisition lawfully made upon him under or in pursuance of any of the said provisions.

Continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall



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be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

Explanation:- The entries in the third column of Schedule I and II headed "Subject" are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

8. A perusal of the Sections would show that the offending lorry owners have committed an offence under the Public Health Act. Apart from the Public Health Act, Chapter XIV of the Indian Penal Code deals with offences affecting the Public Health, Safety, Convenience, Decency and Morals. Section 268 & 269 of IPC reads as under:-

268. Public nuisance - A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Negligent act likely to spread infection of disease dangerous to life - Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

9. Section 102 of Criminal Procedure Code reads as follows:-

102. Power of police officer to seize certain property- (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.



(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

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(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court (or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation) he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same].

[Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.]"

10. Section 2(n) of the Criminal Procedure Code, reads as under:-

" offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle- trespass Act, 1871 (1 of 1871 )"

11. In view of the acts committed by the lorry owners as mentioned above will attract offence under Section 102 of the Criminal Procedure Code read with Section 268 and 269 of IPC, the Deputy Commissioner of Police, Ambattur Circle, Ambattur, is directed to take action against the vehicle owners, who have violated the provisions of Public Health Act. The said Authority shall also take appropriate action against the erring lorry owners, based on the 3rd respondent's letter dated 25.10.2018, in accordance with law.



12. With the above directions, the Writ Petition is disposed.  
No costs.

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Sd/-  
Assistant Registrar(CS )

//True copy//

Sub Assistant Registrar

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To

1. The District Collector,  
Tiruvallur District at Tiruvallur
2. The Tahsildar,  
Maduravoil Taluk,  
Tiruvallur District.
3. The Commissioner,  
Thiruverkadu Municipality  
Tiruvallur District.
4. The Inspector of Police  
Maduravoil Police Station,  
Tiruvallur District.

+4cc to Mr.M/s.C.S.Rajalakshmi, Advocate SR.No.57963, 58444

+1cc to Mr.R.Mohandoss, Advocate SR.No.58213

Writ Petition No.15096 of 2017

RJI (CO)  
GMY(14/08/2019)