

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.32687 of 2018 and

W.M.P.No.37885 of 2018

B.K.Moorthy @ Thetchinamoorthy .. Petitioner in person

Vs.

1.The District Collector,
Nagapattinam District @
Nagapattinam.

2.The Sub Collector,
Nagapattinam Town @
Nagapattinam District.

3.The Tahsildar,
Kilvelur Taluk @ Kilvelur,
Nagapattinam District.

4.The Executive Officer,
Velankanni Town Panchayat,
Velankanni,
Nagapattinam District.

5.The Rector/Administrator,
Shrine Basilica, Velankanni - 611 111,
Nagapattinam District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the respondents 1 to 4 to remove away the encroachment on the public passage/road near Velankanni Bus Stand at Nagapattinam District by the 5th respondent & others in the interest of largest general public, devotees, tourists and to the benefit of surrounding village people of Velankanni Town Panchayat.

Petitioner : Mr.B.K.Moorthy @ Thetchinamoorthy,
Party-in-person

For Respondents: Mr.S.Kamalesh Kannan,
Government Advocate (R1 to R4)
Mr.M.S.Palanisamy (R5)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition as a Public Interest Litigation to issue a Writ of mandamus to direct the respondents 1 to 4 to remove the encroachment on the public passage/road near Velankanni Bus Stand at Nagapattinam District by the 5th respondent & others.

2.It is the case of the petitioner that there is a 40 feet road from Velankanni Bus Stand to Annai Nagar towards Southern direction and the 5th respondent is preventing the public from using the road by encroaching upon the same by putting up an Information Centre. Further, the petitioner has stated that till the year 2015, the said road was in use and thereafter, the 5th respondent had encroached the land. The petitioner has also stated that he has sent representations to various authorities, however, no action has been taken. In these circumstances, the petitioner has filed the Writ Petition.

3.Before going into the merits of the matter, it is pertinent to note that when the matter was listed for hearing on 28.02.2019, Mr.M.S.Palanisamy, learned counsel appearing for the 5th respondent filed a memo dated 18.02.2019 stating that the petitioner, appearing in person, has not furnished him the typed set of papers till that date. Further, the learned counsel produced a copy of a letter dated 15.02.2019 written by the petitioner threatening him that he will have to face legal consequences if he appears for the 5th respondent in this Writ Petition. In the letter dated 15.02.2019 written by the petitioner, the petitioner has also narrated what he proposes to do when the matter is taken up for hearing on 28.02.2019. The learned counsel further submitted that the petitioner has no right to write a threatening letter to him and asking him to withdraw his appearance in the Writ Petition.

4.When we questioned the petitioner, appearing in person, about the letter dated 15.02.2019, he submitted that he would give a letter to the learned counsel for the 5th respondent viz., Mr.M.S.Palanisamy withdrawing the letter dated 15.02.2019 and also would tender apology to him. Recording the submission made by the petitioner, we have adjourned the matter to 19.03.2019.

5. When the matter was listed on 19.03.2019, the learned counsel appearing for the 5th respondent submitted that the direction given by this Bench on 28.02.2019 has not been complied with by the petitioner till that date. However, the petitioner submitted that he would give the letter on that day (i.e.) 19.03.2019 to the learned counsel for the 5th respondent withdrawing his earlier letter dated 15.02.2019 and tendering apology for writing the said letter. In view of the representation made by the petitioner, we have adjourned the matter to today (i.e.) 21.03.2019.

6. When the matter is taken up for hearing today, Mr. M. S. Palanisamy, learned counsel for the 5th respondent submitted that so far the petitioner has not complied with the directions of this Bench and also not complied with his own undertaking given on 19.03.2019 by giving a letter to him.

7. When the petitioner, who is appearing in person, was questioned about his non-compliance, the petitioner submitted that he will not give any letter to the learned counsel for the 5th respondent now and that he would give the letter only after the disposal of the Writ Petition. Further, he has stated that even if he is hanged, he will not give any letter to the learned counsel for the 5th respondent.

8. Having written a threatening letter to the learned counsel for the opposite side, the attitude of the petitioner, in not tendering apology and withdrawing the letter dated 15.02.2019 by giving a letter to the learned counsel for the 5th respondent, cannot be appreciated. Since the petitioner has not complied with his own undertaking by giving a letter to the learned counsel for the 5th respondent, we are not inclined to entertain the Writ Petition. However, we make it clear that in the event of any encroachment made by the 5th respondent in the public road near Velankanni Bus Stand, the respondents 1 to 4 shall take appropriate action in accordance with law for the removal of the encroachment. We give this direction only for the reason that the Writ Petition has been filed as a Public Interest Litigation.

9. With these observations, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Nagapattinam District @
Nagapattinam.

2.The Sub Collector,
Nagapattinam Town @
Nagapattinam District.

3.The Tahsildar,
Kilvelur Taluk @ Kilvelur,
Nagapattinam District.

4.The Executive Officer,
Velankanni Town Panchayat,
Velankanni,
Nagapattinam District.

+1cc to Government Pleader sr.no.27220

+1cc to Mr.M.S.Palaniswamy, Advocate sr.26728

+1cc to Mr.B.K.Moorthy @ Thetchinamoorthy, Advocate sr.26710

W.P.No.32687 of 2018 and
W.M.P.No.37885 of 2018

kk(co)
nr 12/04/2019



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