



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.05.2019

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

W.P(MD)No.11720 of 2019

K.Ramesh

... Petitioner

Vs.

1.The Thasildar,
Kadayanallur,
Tirunelveli District.

2.The Commissioner,
Kadayanallur Municipality,
Kadayanallur.

3.P.Bagavathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to evict the third respondent's petty shop from Kamakshiamman Kovil, South Street Junction, Opposite to Vadakathi Amman Kovil, Kadayanallur Town and Taluk, Tirunelveli District within the stipulated time fixed by this Court based on the petitioner's representation, dated 30.01.2018.

For Petitioner : Mr.RM.Arun Swaminathan

For RR 1 & 2 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

ORDER

(Order of the Court was made by **M.DHANDAPANI, J.**)

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the respondents 1 and 2 to evict the third respondent's petty shop from Kamakshiamman Kovil South Street Junction, Opposite to Vadakathi Amman Kovil, Kadayanallur Town and Taluk, Tirunelveli District within the stipulated time fixed by this Court based on the petitioner's representation, dated



2.The case of the petitioner is that he is a resident of Kadayanallur Village and owned a house property. In front of his house, the third respondent running a petty shop just adjacent to the doorstep of the petitioner's house and installed the petty shop in front of his house which is disturbing the ingress and egress of the school going children and the major portion of the road was occupied with the petty shop, for which, the petitioner made a representation to the authorities concerned for removal of the same. However, no steps have been taken by the authorities concerned to remove the said shop, which accelerated the petitioner to knock the doors of this Court.

3.The learned counsel appearing for the petitioner submitted that admittedly, the third respondent installed the petty shop without obtaining any prior permission either from the local authority or from the concerned authority and he put up the petty shop just adjacent to the doorstep of the petitioner's house and occupied the major portion of the road, which is necessarily to be removed.

4.The learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that no permission was granted for installing the petty shop and the petitioner made a representation to the authorities concerned on 30.01.2019 and the concerned authority is ready to consider his representation and pass suitable orders.

5.Heard both sides and we have perused the photographs produced by the petitioner. Admittedly, the third respondent did not get prior permission from the authority concerned and the alleged occupation made by the third respondent is an unauthorised one.

6.When the matter was taken up for hearing on 15.05.2019, Mr.D.Venkatesh, learned counsel, who took notice for the third respondent, sought time to get instructions from his client and accordingly, the matter was posted today ie., 16.05.2019.

7.Today, when the matter was taken up for hearing at 10.45 a.m., no one represented for the third respondent. Therefore, the matter was passed over and at 02.15 p.m., when the matter was again taken up for hearing, there is no representation for the third respondent. Hence, we have no other option except to pass the following orders in the absence of the third respondent.

8.Considering the above facts and circumstances of the case, the second respondent is directed to remove the petty shop from the above said place before 04.06.2019.



9.The Writ Petition is disposed of with the above direction.
No costs.

WEB COPY

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Thasildar,
Kadayanallur,
Tirunelveli District.

2.The Commissioner,
Kadayanallur Municipality,
Kadayanallur.

+1CC TO MR.RM.ARUN SWAMINATHAN, Advocate Sr. No. 66053

W.P (MD) No.11720 of 2019
16.05.2019

AL (CO)
TR (22.05.2019) 3P 4C