



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD) No.7205 of 2019

P.Subramanian

... Petitioner

Vs.

1. The Special Officer,  
Assistant Director for Special Grade Town Panchayat,  
Thisayanvillai Special Grade Town Panchayat(In-charge),  
Assistant Director Office,  
NGO Colony, Tirunelveli.

2. The Executive Officer,  
Thisayanvillai Special Grade Town Panchayat,  
Thisayanvillai,  
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to pass appropriate orders to fix the lease amount and permit the petitioner herein to put up temporary structure in the allotted place(16ft X 16ft) in S. No.17/1B/2A/C, Ward No.9, Thisayanvillai Special Grade Town Panchayat as per Resolution No.123 dated 14.02.2018 passed by the first respondent herein by considering the representation dated 09.03.2019 within the time stipulated by this Court.

For Petitioner : Mr.V.Meenakshi Sundaram,  
for Mr.V.Balasubramanian.

For Respondents : Mr.M.Rajarajan,  
Government Advocate.

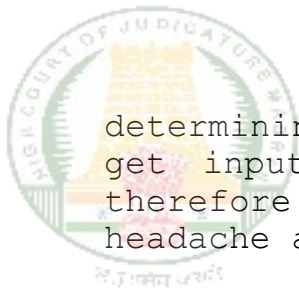
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### **O R D E R**

Heard the learned counsel on either side.

2. Opposing the Writ petitioner's prayer, a detailed counter affidavit has been filed by the second respondent. The learned Standing counsel appearing for the Panchayat reiterated all the contentions set out therein.

3. It is seen that the Writ petitioner was paying ground rent and occupying a site belonging to the second respondent. Now he wants to put up a temporary structure. In fact the second respondent has passed a resolution as early as on 14.02.2018 for permitting the petitioner to do so. But then, the question of



determining the lease rent arose. The second respondent wanted to get inputs from the Public Works Department. The matter was therefore referred to the Public Works Department. Now the headache arose for the Writ petitioner.

4. The Public Works Department took the stand that the site in question is a Government poramboke land and declined to assess the market value. The matter has been pending so far. Therefore, the Writ petition has been filed.

5. It is not in dispute that the resolution was passed in favour of the Writ petitioner on 14.02.2018. Even in the counter affidavit filed by the second respondent, this aspect of the matter has been admitted. In paragraph No.5 of the counter affidavit states that the matter was placed before the Town Panchayat council on 14.02.2018. The resolution was passed in favour of the Writ petitioner. When it has not been rescinded till date, the second respondent cannot now go back on the same. The second respondent wanted to take the assistance of the Public Works Department and the assistance is not forthcoming. The second respondent will have to do the exercise on their own. The Writ petitioner is ready to pay rent on the same basis as paid by the similarly placed persons. Therefore, I direct the second respondent to fix the lease rent and permit the petitioner to put up the temporary structure in the petition mentioned site.

6. The Writ petition stands allowed, accordingly.

7. The proceedings in this regard will be issued by the second respondent within a period of eight weeks from the date of receipt of a copy of this order. The petitioner cannot take shelter behind the order made in this Writ petition, as and when the Government takes action against the petitioner.  
No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

pmu

To

1. The Special Officer,  
Assistant Director for Special Grade Town Panchayat,  
Thisayanvillai Special Grade Town Panchayat(In-charge),  
Assistant Director Office,  
NGO Colony, Tirunelveli.



2. The Executive Officer,  
Thisayanvillai Special Grade Town Panchayat,  
Thisayanvillai,  
Tirunelveli District.

+2CC TO MR.V.BALASUBRAMANIAN, Advocate Sr. No. 64083

W.P.(MD) No.7205 of 2019  
29.04.2019

AL(CO)  
TR (04.06.2019) 3P 5C