



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Twenty Seventh day of August Two Thousand Nineteen
CORAM:

The Hon'ble Mr.Justice M.SATHYANARAYANAN
and
The Hon'ble Mr.Justice B.PUGALENDHI

WP(MD) No.8267 of 2019

A.SATHRAK GNANADASAN

... PETITIONER

Vs

1 THE DISTRICT COLLECTOR,
TIRUNELVELI DISTRICT, TIRUNELVELI.

2 THE COMMISSIONER,
TIRUNELVELI CITY MUNICIPAL CORPORATION, TIRUNELVELI.

3 THE DIVISIONAL ENGINEER,
NATIONAL HIGHWAYS (CONSTRUCTION AND MAINTENANCE)
PALAYAMKOTTAI, TIRUNELVELI.

4 THE ASSISTANT DIVISIONAL ENGINEER,
NATIONAL HIGHWAYS (CONSTRUCTION AND MAINTENANCE)
PALAYAMKOTTAI, TIRUNELVELI.

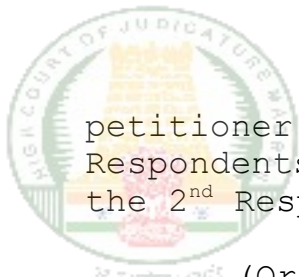
5 THE ASSISTANT ENGINEER
NATIONAL HIGHWAYS (CONSTRUCTION AND MAINTENANCE)
PALAYAMKOTTAI, TIRUNELVELI.

6 N.ANGAMMAL
19, Sithi Vinayagar Temple Street,
Palayamkottai, Tirunelveli.

... RESPONDENTS

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent 1 to 5 to remove the AVE ICE CREAM KIOSK, put up by the 6th respondent over the storm water channel falling along the road margin of entire bye-pass road (SH75A) on the stretch of Vannarpettai area, Tirunelveli and remove all other obstructions made on above said storm water channel on the entire road margin of said bye-pass (SH75A) situated at Vannarpettai area, Tirunelveli City and restore the entire stretch of storm water channel to its original position, so as to ensure obstruction free water flow and also take appropriate action against the responsible persons and officers etc., within the stipulated time to be fixed by the Honourable Court.

ORDER : Writ petition is coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.BALAMURUGAN, Advocate for the



petitioner and of Mr.J.GUNASEELAN MUTHAIAH, Advocate for the Respondents No.1,3 to 5, and of Mr.AYIRAM K.SELVAKUMAR, Advocate for the 2nd Respondent, this Court made the following order:-

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

WEB COPY This Court, in continuation and in conjuncture with the earlier order dated 13.08.2019, is passing the following order.

2. The Divisional Engineer, Highways, Construction and Maintenance Division, Tirunelveli, has filed a status report, dated 27.08.2019 and it is relevant to extract hereunder paragraph Nos.2 and 3 of the same:

" 2. It is further humbly submitted that the stretch in Km 5/8-6/4, to a length of 480m is a business area having shops, vendors, hotels, workshops and bakeries. The temporary encroachment have been completely removed on 22.07.2019 and the storm water channel has been formed at the extreme boundary for free flow of drainage and storm water in the rainy seasons. It is also humbly submitted that, there is no permanent encroachments in the stretch.

3. It is humbly submitted that in the Revenue records, the location at Km 5/8-6/4 is shown as builtup area and there is no water channel."

3. The learned Additional Advocate General appearing for the official respondents has drawn the attention of this Court to the photographs and would point out that a open trench has been kept to create the water way and it will lead to Palayam Kalvai, which in turn leads to Maruthur dam and steps have been taken to ensure free flow of water to the said dam without natural hindrance.

4. However, this Court, on seeing the photographs, is having it's own doubt as to the contents of the status report, especially, with regard to the location of the trench. Therefore, the Registry is directed to forward a copy of this order as well as the earlier order of this Court, dated 13.08.2019 along with the status report of the Divisional Engineer, Highways, Construction and Maintenance Division, Tirunelveli dated 27.08.2019 to the Secretary, District Legal Services Authority, Tirunelveli and he shall cause inspection of the area in question in the presence of the respondents 3 and 4 and file a status report with photographs and expenses in that regard, shall be borne out by the respondents 3 and 4.

5. Call on **18.09.2019**.

Sd/-

Assistant Registrar (CS-II)

// True Copy //



TO

- 1 THE DISTRICT COLLECTOR,
TIRUNELVELI DISTRICT, TIRUNELVELI.
- 2 THE COMMISSIONER,
TIRUNELVELI CITY MUNICIPAL CORPORATION, TIRUNELVELI.
- 3 THE DIVISIONAL ENGINEER,
NATIONAL HIGHWAYS (CONSTRUCTION AND MAINTENANCE)
PALAYAMKOTTAI, TIRUNELVELI.
- 4 THE ASSISTANT DIVISIONAL ENGINEER,
NATIONAL HIGHWAYS (CONSTRUCTION AND MAINTENANCE)
PALAYAMKOTTAI, TIRUNELVELI.
- 5 THE ASSISTANT ENGINEER
NATIONAL HIGHWAYS (CONSTRUCTION AND MAINTENANCE)
PALAYAMKOTTAI, TIRUNELVELI.

Copy To:

THE SECRETARY,
DISTRICT LEGAL SERVICES AUTHORITY, TIRUNELVELI

ORDER IN
WP(MD) No.8267 of 2019
Date :27/08/2019

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