



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 883 of 2019

WEB COPY

Sreelatha

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the District Collector,
Kanyakumari District at Nagercoil.
2. The Deputy Director of Health Services,
Department of Health and Family Welfare,
Krishnan Kovil, Nagercoil - 1,
Kanyakumari District.
3. The Executive Officer,
Puthukadai Town Panchayath,
Puthukadai -Post, Kanyakumari District.

4. Vasanthi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 to 3 to remove the latrine and septic tank that have been constructed on the north side of the petitioner's well and restraining respondents 1 to 3 from allowing the fourth respondent constructing any septic tank within a distance of 50 feet from the petitioner's well in Resurvey No.345/2 in Munchirai Revenue Village, under the patta No.4742, Vilavancode Taluk, Kanyakumari District.

For Petitioner : Mr.Kumar,
for Mr.V.H.S.Prathap.

For R-1 to R-3 : Mr.M.Rajarajan,
Government Advocate.

For R-4 : Mr.C.Kishore
* * *

O R D E R

The Writ petitioner and the fourth respondent are neighbours. There is a well in the premises of the Writ petitioner. The fourth respondent is intending to put up a septic tank in her patta land. The same is opposed by the petitioner on the ground that the proposed construction is within the prohibited distance of 50 feet. The petitioner has given a representation in this regard to the third respondent.



2. Heard the learned counsel on either side.

3. Section 32 of the Tamil Nadu Public Health Act reads as under:-

"Construction and closure of cesspools

(1) No person shall construct a cesspool-

(a) beneath any part of any building or within fifty feet of any tank, reservoir, water-course or well or within such other distance therefrom as the Health Officer may consider to be practicable having regard to the circumstances of the locality; or

(b) within any local area, or outside such area but within three hundred feet of any reservoir used for the storage of filtered water to be supplied to such area, except upon a site and in a position which have been approved in writing by the Health Officer.

(2) The Health Officer may, at any time, by notice, require any person within whose premises any cesspool is constructed in contravention of sub-section (1) to remove such cesspool or to fill it up with such material as may be approved by him."

4. The learned counsel appearing for the Writ petitioner also drew my attention to the decision of the Madras High Court rendered in S.A.No.459 of 2002, dated 08.09.2010.

5. If the proposed construction of septic tank is within the prohibited distance, obviously, the third respondent cannot permit the same. But then, the distance attributed by the petitioner is disputed by the fourth respondent. Therefore, the third respondent is directed to hold an enquiry into the petitioner's representation and take a decision based on spot inspection and measurement. The same will be done in the presence of the Writ petitioner and the fourth respondent. The third respondent shall pass orders in this regard within a period of four weeks from the date of receipt of a copy of this order.

6. The Writ petition stands disposed of, on these terms. No costs.

Sd/-

Assistant Registrar

/ True Copy /



To
1. The District Collector,
Kanyakumari District at Nagercoil.

2. The Deputy Director of Health Services,
Department of Health and Family Welfare,
Krishnan Kovil, Nagercoil - 1,
Kanyakumarid District.

3. The Executive Officer,
Puthukadai Town Panchayath,
Puthukadai -Post,
Kanyakumari District.

+1 CC to M/s.V.H.S.PRADHAP, Advocate
(SR-62057[F] dated 24/04/2019)

+1 CC to M/s.SPL GP (SR-62153[F] dated 24/04/2019)
(SR-62086[F] dated 24/04/2019)

+1 CC to M/s.C.KISHORE, Advocate (SR-62255[F] dated 24/04/2019)

W.P. (MD) No.883 of 2019
23.04.2019

ES/06.05.2019/3P/7C