



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 31.07.2019

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P. (MD) NO. 16953 OF 2019

AND

W.M.P. (MD) NOS. 13529 & 13530 OF 2019

A.Shahul Hameed

.. Petitioner

- Vs -

1. The District Collector  
Tirunelveli District  
Tirunelveli.
2. The Revenue Divisional Officer  
Tenkasi, Tirunelveli District.
3. The Tahsildar  
Kadayanallur, Tirunelveli District.
4. The Regional Director of  
Municipal Administration  
Tirunelveli, Tirunelveli District.
5. The Commissioner  
Kadayanallur Municipality  
Tirunelveli District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents not to construct shops in Weekly Market facing Santhai Street (North) by demolishing the compound wall separating the Weekly Market from Santhai (residential) Street at Kadayanallur Town, Tirunelveli District.

For Petitioner : Mr. T.S.Mohamed Mohideen

For Respondents : Mr. A.K.Baskarapandian, Spl. G.P.  
For RR-1 to 4  
Mr. M.RAJarajan for R-5



## ORDER

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

The petitioner is the President of Kadayanallur, Pettai Muslim Jamath, Kadayanallur and he came forward to file this writ petition, styled as a public interest litigation, stating among other things that in Santhai Street, facing North, the 5<sup>th</sup> respondent Municipality, sought to demolish the wall put up on the premises of the said Municipality and putting up row of shops with opening towards north and in that event, the privacy of the residents of the locality - most of them are professing Islamic faith, would be affected.

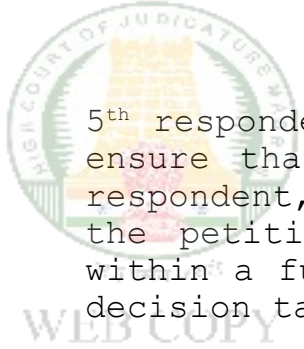
2. Mr.T.S.Mohamed Mohideen, learned counsel for the petitioner, has drawn the attention of this Court to the typed set of documents and photographs and submits that instead of demolishing the wall and putting up shops, which is opening up towards Santhai Street, the wall on the eastern side portion of the property, having 10 feet width, could be demolished so that access to the newly constructed shops would be there and further pointed out that despite very many personal representations followed by written representation dated 2.7.19, no response is forthcoming, either from the 5<sup>th</sup> respondent or from the higher officials and left with no other option, the petitioner is constrained to approach this Court by filing this writ petition.

3. Mr.A.K.Baskarapandian, learned Special Government Pleader accepts notice for respondents 1 to 4 and Mr.M.Rajarajan, learned standing counsel accepts notice for the 5<sup>th</sup> respondent.

4. Learned standing counsel appearing for the 5<sup>th</sup> respondent has invited the attention of this Court to the photographs filed in the typed set of documents and submits that admittedly a hotel is also located and there are very many multistoried houses, which are also having projection on the street and in order to augment the revenue, the local body is entitled to put up shops and, therefore, the petitioner has no legal right to forbear the 5<sup>th</sup> respondent Municipality from putting up shops and prays for dismissal of this writ petition.

5. This Court has carefully considered the submissions advanced by the learned counsel on either side and perused the materials available in the typed set of documents as also the photographs.

6. Though the petitioner prays for the larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in the representation or in this writ petition, directs the 5<sup>th</sup> respondent to give an opportunity of hearing to the petitioner on 7.8.2019, on which date the petitioner shall alone appear before the



5<sup>th</sup> respondent for the purpose of personal hearing and he shall also ensure that no public law and order problem is created. The 5<sup>th</sup> respondent, after providing the opportunity of personal hearing to the petitioner, shall consider and dispose of the representation within a further period of two weeks thereafter and communicate the decision taken to the petitioner.

7. It is also open to the 5<sup>th</sup> respondent to cause inspection of Santhai Street and find out how many constructions are authorised and how many constructions are unauthorised to find out whether the construction put up by residential or commercial entities are in accordance with the sanctioned plan or not and depending upon the result of the inspection, may also take further action in accordance with law.

8. This writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

9. Registry is directed to mark a copy of this order to the Inspector of Police, Kadayanallur Police Station, Tirunelveli District, for necessary assistance.

Sd/-  
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector  
Tirunelveli District, Tirunelveli.
2. The Revenue Divisional Officer  
Tenkasi, Tirunelveli District.
3. The Tahsildar  
Kadayanallur, Tirunelveli District.
4. The Regional Director of  
Municipal Administration  
Tirunelveli, Tirunelveli District.
5. The Inspector of Police  
Kadayanallur Police Station, Tirunelveli District.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate ( SR-78819[F] dated 31/07/2019 )

W.P. (MD) NO. 16953 OF 2019  
31.07.2019

gln  
JM/05.08.2019/3P-7C