



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD) No.2352 of 2020

and

W.M.P. (MD) No.2009 of 2020

WEB COPY

V.Balasubramanian

... Petitioner

Vs.

1) The Block Development Officer,
Mayiladumparai Panchayat Union,
Mayiladumparai,
Andipatti Taluk, Theni District.

2) The Tahsildar,
Andipatti Taluk, Theni District.

3) The President,
Kandamanur Village Panchayat,
Kandamanur, Andipatti Taluk,
Theni District.

4) Kandamanur Hindu Nadar Uravinmurai,
Rep. by K.Iyyanar,
S/o Ganesan,
Nadar Street, Kandamanur, Andipatti Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the impugned order in Na.Ka.No.7/2019 dated 31.01.2020 on the file of the 1st respondent and quash the same.

For Petitioner	: Mr.G.Prabhu Rajadurai
For R-1	: Mr.Gunaseelan Muthiah
For R-2	: Mr.Aayiram K.Selvakumar
	Additional Government Pleader
For R-3	: Mr.Hema Karthikeyan
For R-4	: Mr.S.Saravanan

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari, to call for the records of the impugned order in Na. Ka. No. 7/2019, dated 31.01.2020 on the file of the 1st respondent



and quash the same.

2. The petitioner has challenged the order passed by the Block Development Officer, the first respondent herein, cancelling the building permit granted earlier by the Special Officer, Kandamanur Village Panchayat. The petitioner has also added the fourth respondent, who is the Kandamanur Hindu Nadar Uravinmurai.

3. The learned Additional Government Pleader produced the adangal extract of S.No.995/13 as per which it is classified as 'street' poramboke. Now, the case of the petitioner is that earlier he was granted building permit on 06.12.2019 based on which he pulled down the old structure in which he was residing and started putting up a new structure. While so, the impugned order came to be passed by the first respondent stating that the place where the petitioner is constructing the new structure belongs to the Panchayat and there is also a civil suit pending with respect to the same. Therefore, the building permit already granted to the petitioner is cancelled.

4. The learned counsel for the petitioner would urge that the impugned order itself is vitiated for not complying with the principles of natural justice, as no notice was issued before the said order was passed.

5. The learned Additional Government Pleader would submit that the impugned order may be treated as notice of hearing and the first and second respondents would conduct an enquiry in this regard and to afford an opportunity to the petitioner to putforth his case and then decide on the issue.

6. However, it would be appropriate to set aside the order impugned and direct the third respondent to issue fresh notice to the petitioner and to any other person concerned having right over the property.

7. In the result, the Writ Petition stands allowed and the impugned order is set aside and the third respondent shall conduct an enquiry affording an opportunity of personal hearing and pass appropriate orders. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected W.M.P.(MD) No.2009 of 2020 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1) The Block Development Officer,
Mayiladumparai Panchayat Union,
Mayiladumparai,
Andipatti Taluk, Theni District.

2) The Tahsildar,
Andipatti Taluk, Theni District.

3) The President,
Kandamanur Village Panchayat,
Kandamanur, Andipatti Taluk,
Theni District.

+1 CC to M/s.M.SARAVANAN, Advocate (SR-5668[F] dated 11/02/2020)

+1 CC to M/s.HEMA KARTHIKEYAN, Advocate (SR-5669[F]

+1 CC to M/s.SPL.GP (SR-5826[F] dated 12/02/2020)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-5947[F]

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-6091[F] dated 13/02/2020

+1 CC to M/s.J.GUNASEELAN MUTHIAH, Advocate (SR-6242[F]

Order made in

W.P (MD) No.2352 of 2020

SMA/13/03/2020/3P/10C