



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2020

CORAM

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**THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM**

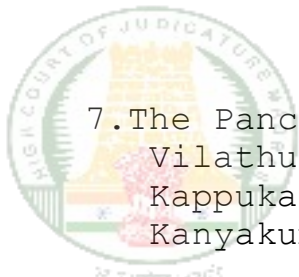
**W.P. (MD) No. 7468 of 2020
and
W.M.P. (MD) No. 6931 of 2020**

C. Krishnadhas

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
at Nagercoil.
2. The Revenue Divisional Officer/
Sub-Collector,
Padmanabhapuram,
Thuckalai, Kanyakumari District.
3. The Assistant Director of Panchayat,
Collectorate Campus,
Nagercoil,
Kanyakumari District.
4. The Tahsildhar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.
5. The Assistant Engineer,
Distribution - TANGEDCO,
KKEDC, Puthukkadai,
Kanyakumari District-629 173.
6. The Block Development Officer,
(Village Panchayat),
Munchirai Panchayat Union,
Munchirai,
Kanyakumari District.



7. The Panchayat President,
Vilathurai Village Panchayat,
Kappukad (Post),
Kanyakumari District.

8. S. Nagappan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 7 to consider the petitioner's representation dated 15.06.2020 and to remove the illegal encroachment made by the eighth respondent and other people on the Koduvanamthottam road, Vilathurai Village Panchayat, Ward No.4, Kappukad Post, Kanyakumari District within the stipulated time.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader for R.1 to R.4

Mr.S.Dhayalan
Government Advocate for R.5 and R.6

* * * * *

ORDER

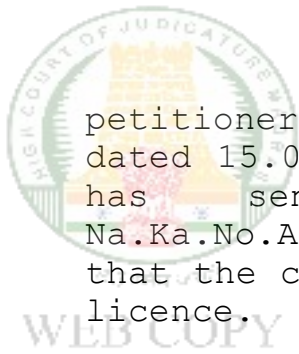
(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner claims to be a public interest litigant alleging that the eighth respondent, without obtaining planning permission whatsoever, has put up unauthorised construction by encroaching upon the Koduvanamthottam Village road, which leads to Marthandam - Thangapattinam State Highways.

2. Heard the submissions of the learned Counsel appearing for the petitioner.

3. This Court, during the course of hearing, put a specific query to the learned Counsel appearing for the petitioner as to the premises in which the petitioner is residing/owning is authorised or unauthorised and for want of instructions, the learned Counsel appearing for the petitioner is unable to answer the said query.

4. It is to be noted, at this juncture, that whenever a public interest litigant pleads that the construction put up by the private respondent is unauthorised, he is under equal obligation to state that his construction is authorised. However, the said respondent is lacking in this writ petition. The



petitioner, in this regard, has also submitted a representation, dated 15.06.2020 and responding to the same, the sixth respondent has sent a communication, dated 18.06.2020 in Na.Ka.No.A9/1519/2019, addressed to the seventh respondent stating that the construction is without any authorisation or permission / licence.

5. Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, accepts notice on behalf of the respondents 1 to 4 and on instructions, would submit that since the construction is unauthorisedly put up, the concerned person who is putting up such construction has been asked to stall the construction and further proceedings are also on.

6. Since the petitioner has failed to aver that the premises, in which, he is residing/owning is authorised, it is open to the sixth respondent to cause inspection of the premises of the petitioner also to find out whether it is authorised or unauthorised/deviated.

7. In the light of the submissions made by the learned Additional Government Pleader appearing for the respondents 1 to 4, this Writ Petition is disposed of and the concerned officials are directed to proceed in accordance with law in respect of the alleged unauthorised construction being put up and it is also open to the concerned individual to work out his remedy in accordance with law before the competent forum. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL/RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

(ii) The Registry is directed to communicate this order to the seventh respondent.



To

1. The District Collector,
Kanyakumari District,
at Nagercoil.
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SPU(17.07.2020) 4P 8C