



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.7433 of 2020

and

W.M.P. (MD)Nos.6888 and 10065 of 2020

Padmini

... Petitioner

Vs.

1.The District Collector,
Thanjavur District, Thanjavur.

2.The Planning Officer,
Office of the District Collector,
Thanjavur District, Thanjavur.

3.The Thasildar,
Orathanadu Taluk, Thanjavur District.

4.The Assistant Executive Engineer,
Public Works Department (Buildings),
Pattukottai, Thanjavur District.

5.The Block Development Officer,
Office of the BDO,
Thiruvonam, Thanjavur District.

6.K.Bhaskar (Contractor)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from putting up a bus shelter or any construction upon Survey No.150, Kizhamangalam (Village Number 115) which stands classified as a water channel vested with the Public Works Department.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.K.Chellapandian

Additional Advocate General,

Assisted by Mr.M.Rajarajan,

Additional Government Pleader for R1 to R4

Mr.V.Anand, Government Advocate for R5

Mr.G.Kannan for R6

ORDER

Heard the learned counsel on either side.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The petitioner is a widow. She is running a tea stall near the petition mentioned site. The petitioner is aggrieved by the putting up of the bus shelter in question. The petitioner's counsel pointed out that the bus shelter is coming up on a water body. This Court therefore granted interim relief in favour of the petitioner. To vacate the same, the respondents have filed a miscellaneous petition. The learned Additional Advocate General appearing for the respondents 1 to 4 submitted that 60% of the work is already over. Initially, the learned Additional Advocate General contended that the bus shelter is not coming up on the water body. I therefore directed the fourth respondent to file an affidavit confirming this statement. Today, the fourth respondent claimed that the construction is not objectionable. That was not my original question. The question was whether the construction was coming up on a water body. Now it is admitted that the construction is actually coming up on a water body but then, the construction will be in such a way that the original flow of water will not be in any way impeded. Pipes of substantial width will be installed and the flow of water through the petition mentioned survey number will not be affected in any way. I make it clear that if this undertaking is breached, this Court will not hesitate to demolish the structure that is now being put up. Since a specific undertaking has been given before this Court, I permit the construction to be completed.

3.Now comes the question of protecting the rights of the petitioner. The petitioner is eking her livelihood by running a tea stall. The respondents state that by putting the bus shelter, accessing the petitioner's tea stall will not be affected. This submission is also placed on record. In order to ensure that the respondents agreed not to raise any enclosing wall. In other words, the bus shelter will have only pillars, roof and flooring. In other words, people should be in a position to access the tea stall from the road itself after going through the bus shelter.

4.Since the petitioner's rights have been taken care and since free flow of water will also not be impeded, I am of the view that the interim relief earlier granted can be lifted. It is accordingly lifted. The construction shall go on. I make it clear that that there will be no further putting up of any more bus shelter on the water channel by the respondents.

5.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

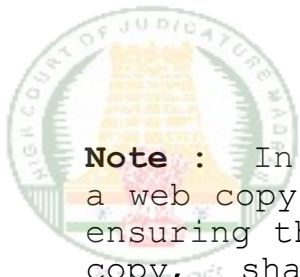
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Assistant Registrar()

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Sub Assistant Registrar



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.

WEB COPY

To

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Planning Officer,
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Thanjavur District, Thanjavur.
- 3.The Thasildar,
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- 4.The Assistant Executive Engineer,
Public Works Department (Buildings),
Pattukottai, Thanjavur District.
- 5.The Block Development Officer,
Office of the Block Development Officer,
Thiruvonam, Thanjavur District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER (SR-2176[F] dated 27/01/2021)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-2095[F] dated 25/01/2021)

Order made in
WP(MD)No.7433 of 2020 and
WMP(MD) Nos.6888 and 10065 of 2020
25.01.2021

IAS
SRS/05.02.2021/3P/8C