



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.7770 of 2020 and

WMP(MD) No.7256 of 2020

and Cont. P(MD) No.451/2020

(Through Video Conferencing)

W.P. (MD) No.7770/2020

S.Suresh

: Petitioner

Vs.

1.The Additional Chief Secretary to Government
Rural Development and Panchayat Raj Development
Annai Terasa Mahalir Valagam
1st Floor, Valluvar Kottam High Road,
Nungambakkam, Chennai.600 034.

2.The Director of Rural Development & Panchayat Raj
(village Panchayat)
Panagal Maligai
4th & 5th Floor,
Abdul Razzak Street,
Saidapet, Chennai 600 015.

3.The District Collector
Kanyakumari District,
At Nagercoil.

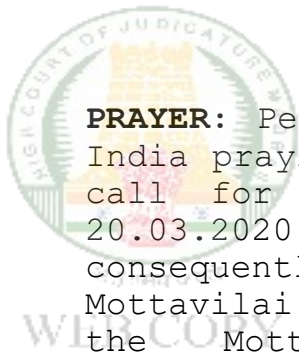
4.The Assistant Director,
(Village Panchayat)
Collectorate Building,
Nagercoil
Kanyakumari District.

5.The Block Development Officer,
(Village Panchayat)
Kurunthancode Panchayat Union,
Kanyakumari District.

6.The Panchayat President,
Kattimancode Panchayat,
Kattimancode Post
Kanyakumari District.

7.J.Justin Jebadhas
<https://hcservices.ecourts.gov.in/hcservices/>

: Respondents



PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 20.03.2020 passed by the 6th respondent and quash the same and consequently direct the respondents to permit the villagers of Mottavilai village and other to sell their agriculture Products in the Mottavilai market as mentioned in the impugned order by considering their peaceful enjoyment of Mottavilai Market for more than 7 decades.

For Petitioner : Mr.M.R.Sreenivasan
For Respondents : Mr.K.P.Krishnadoss for R1 to R5
Special Government Pleader
Mr.C.Godwin for R7
Mr.S.Dhayalan for R6.

Cont.P. (MD) No.451/2020

J.Justin Jebadhas : Petitioner/Petitioner

Vs.

Prashant M.Wadnere
The District Collector
Kanyakumari District
Nagercoil.

: Respondent/Complainant

PRAYER: Contempt Petition is filed under section 10 and 11 of Contempt of Courts Act, 1971 to punish the respondent for wilfully disobeying the order passed by this Court in W.P.No.18464 of 2019 dated 27.09.2019.

Prayer in WP(MD). 18464/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records relating to the proceedings of the 3rd Respondent in Na.Ka.No.A10/4886/2017 dated 01-04-2019 and quash the same. and direct the 1st Respondent to dispose the representation of the petitioner dated 02-07-2018.

For Petitioner : Mr.C.Godwin
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

COMMON ORDER

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

As the contempt application and the writ petition arose out of the same issue, they are taken up accordingly and disposed of by this common order.

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



2.The contempt application has been filed by the petitioner in W.P.(MD) No.18464/2019 alleging non compliance of the order passed in the said writ petition. Suffice it to state that the petitioner in W.P.(MD) No.7770/2020 was not a party.

3. The present writ petition has been filed challenging the impugned order asking the writ petitioner and others to vacate the place on the premise that they are running a private market.

4. The learned counsel for the petitioner in the contempt petition submitted that the alleged compliance is not factually correct and the documents available with him would substantiate the same.

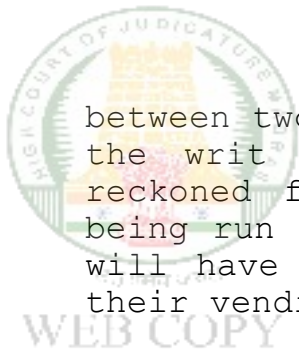
5. The learned counsel for the petitioner in W.P.(MD) No.7770/2020 submitted that in the earlier proceedings, the petitioner was not a party and there is no private market that is being run, but what is being run is only a traditional or natural market. This is time specific and being in vogue for decades. People merely eke out their livelihood by selling their own product, which they carry.

6. The learned Special Government Pleader submitted that the order of this Court has been complied with and the allegation made in the contempt petition is not true.

7.Reliance has been made on the following paragraphs:

"5.I submit that based on the directions of this Hon'ble Court, this respondent directed the Tahsildar, Kalkulam Taluk, to visit the place and report. The Tahsildar after due inspection reported that there is no private market in Thanivilai Junction of Kattimancode Panchayat as contended by the writ petitioner but there is a private market in Mottavilai area in Kattimancode Panchayat and was functioning without any license granted by the local panchayat. Accordingly, the Panchayat was directed to issue appropriate notice the runners of the Private market and take steps to remove them. The President of the Kattimancode Panchayat had issued appropriate notice for removal of private market in Mottavilai area and the said private market was removed in compliance of this Hon'ble High Court order on 03.04.2020 by the local panchayat and the Block Development Officer, which is one and the same. Now there is no private market running in Kattimancode Panchayat without any license."

8. There are two important factors, which are required to be taken note of by us. In the earlier writ petition, the petitioner in W.P.(MD) No.7770/2020 was not a party. There is also compliance



between two groups, which we can reasonably infer. Now, the case of the writ petitioner is that the entire issue will have to be reckoned from the point of view of a traditional natural market being run and therefore, the nomenclature given as a private market will have to be eschewed, particularly when poor people are doing their vending over the few decades.

9. We do not wish to go into the issues sought to be raised before us. To resolve the said issue, it will only be appropriate to direct the District Collector, Kanyakumari District, to issue notice to both the petitioner in the contempt petition and the writ petitioner, who are obviously representing two different groups and take a final decision in this regard. After all, the District Collector, Kanyakumari District is the appellate authority under the Tamil Nadu Panchayats Act, 1994 being the Inspector of Panchayats. Appropriate action will have to be taken within eight weeks from the date of receipt of a copy of this order. In the meanwhile, status quo as on today with respect to the on going business shall be maintained. Accordingly, the writ petition stands closed. No costs. Consequently connected Miscellaneous Petition is closed.

10. While closing the contempt petition, we do not find any wilful disobedience on the part of the respondents.

Sd/-

Assistant Registrar (P&A)

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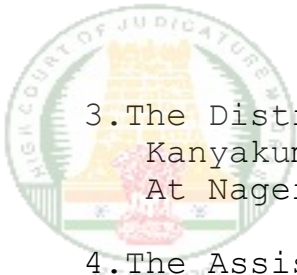
/ /2021

Sub Assistant Registrar(CS)

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.

To

- 1.The Additional Chief Secretary to Government
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Kattimancode Post
Kanyakumari District.

7.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District

+1 CC to M/s.C.GODWIN, Advocate (SR-12526[F] dated 19/03/2021)

+1 CC to M/s.SPL GP (SR-12775[F],12776 dated 22/03/2021)

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-12850[F] dated
22/03/2021)

W.P.(MD)No.7770 of 2020 and
WMP(MD) No.7256 of 2020
and Cont. P(MD) No.451/2020
Dated: 19.03.2021

NA(CO)
KB(23.04.2021) 5P 11C