



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.13497 OF 2022

T.Kolandhavel

... Petitioner

Versus

1. The District Collector,
O/o the District Collector,
Namakkal.
2. The Revenue Divisional Officer,
Namakkal Division, Namakkal District.
3. The Tahsildar,
Mohanur Taluk, Namakkal District.
4. Nallammal

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents to remove the coconut tree situated at the 4th respondent's property based on the representation of the petitioner dated 09.03.2022 on merits and in accordance with law within a reasonable time as may be determined by this Court.

For Petitioner : Ms.M.Janani

For Respondents : Mr.S.J.Mohammed Sathik
for RR 1 to 3

ORDER

This writ petition has been filed seeking for a direction to the respondents to remove the coconut tree situated at the fourth respondent's property based on the representation of the petitioner dated 09.03.2022 within a time frame to be fixed by this Court.



2. The grievance of the petitioner is that the fourth respondent is his neighbour and there is a coconut tree in his property which has encroached upon the petitioner's property and there is every possibility of causing damage to the petitioner's property or its inmates. The photograph of the said coconut tree is also filed along with the writ petition. As seen from the photograph, the coconut tree has extended from the fourth respondent's property into the petitioner's property and there is every possibility that the coconuts from the said tree may fall at any time which may cause damage to the petitioner's property and also cause damage to the persons living in the petitioner's property.

3. Even though the learned Government Advocate submits that it is a private dispute between the petitioner and the fourth respondent and the writ petition is not maintainable, this Court has to take judicial note of the fact that as seen from the photograph filed along with the writ petition, there is every possibility of the coconut tree which has extended into the petitioner's property causing damage to the petitioner's building and its inmates. In such circumstances, the official respondents cannot shirk the responsibility and state that the present writ petition is not maintainable. No prejudice would be caused to the respondents if the petitioner's representation, as stated supra, is considered on merits and in accordance with law after affording a fair hearing to the petitioner and the fourth respondent including granting them the right of personal hearing.

4. As seen from the affidavit filed in support of the petition, even prior to the representation dated 09.03.2022, the petitioner has requested the fourth respondent to remove the tree which has extended into the petitioner's property and according to the petitioner, the fourth respondent has not heeded to the said request.

5. Learned Government Advocate appearing for the official respondents submits that if a direction is issued by this Court in this writ petition, a fresh representation will have to be given by the petitioner. The same is recorded.

6. For the foregoing reasons, this Court directs the petitioner to submit a fresh representation to the third respondent seeking for removal of the coconut tree situate at the fourth respondent's property within a period of one week from the date of receipt of a copy of this order and on receipt of such representation, the third respondent shall pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner and the fourth respondent including granting them the right of personal hearing within a period of eight weeks thereafter.



With the above direction, the writ petition is disposed of.
No costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

sr

To

1. The District Collector,
O/o the District Collector,
Namakkal.
2. The Revenue Divisional Officer,
Namakkal Division, Namakkal District.
3. The Tahsildar,
Mohanur Taluk, Namakkal District.

+1cc to Mr.D.Ashok Kumar, Advocate, S.R.No.32456

+1cc to the Government Pleader, S.R.No.33561 (20/06/2022)

W.P.No.13497 of 2022

SKM(CO)
RLP(14/06/2022)