



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.846 of 2017 and

W.M.P. (MD)Nos.731 & 732 of 2017

R.Viju

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Padmanabapuram,
Thuckalay Post,
Kanyakumari District.

2. The Tahsildar,
Vilavancode Taluk,
Kuzhithurai Post,
Kanyakumari District.

3. The Executive Officer,
Keezhkulam Town Panchayat,
Keezhkulam Post,
Kanyakumari District.

4. Mahalingam

5. Lazar

6. Cicil

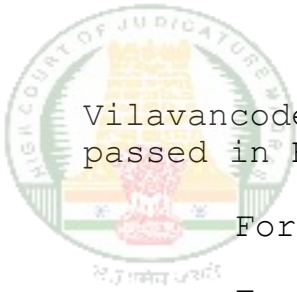
7. Viswanathan

8. Manikandan

9. Lizy Bai

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the first respondent in Na.Ka.No.A2/51/2017 dated 09.01.2017 and consequential notice issued by the third respondent in Na.Ka.No.7/2017/A1 dated 09.01.2017 and quash the both as illegal and consequently forbearing the respondents from forcibly demolishing the compound wall constructed on all four sides of the petitioner's property in Resurvey No.355/1 of Keezhkulam Village,



Vilavancode Taluk, Kanyakumari District in the light of the decree passed in E.P.No.87 of 2013 in O.S.No.187 of 2011 dated 11.07.2016.

For Petitioner : Mr.D.Srinivasaragavan

For R-1& R-2 : Mr.M.Sarangan,
Additional Government Pleader.

For R-4, R-5 &
R-7 to R-9 : Mr.M.P.Senthil

For R-3 : Ms.S.Bharathi

* * *

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the private respondents.

2. The petitioner questions the notice issued by the local body calling upon the petitioner to show cause as to why the provisional order for demolition should not be made absolute. The case of the local body is that the compound wall of the petitioner was put up without getting permission.

3. The learned counsel appearing for the petitioner points out that there was a civil dispute between the petitioner and the private respondents. The private respondents had demolished the existing compound wall. That necessitated the petitioner to file O.S.No.187 of 2011 before the Sub Court, Padmanabhapuram. The private respondents herein are very much figuring as defendants in the said suit. The said suit was decreed on 02.08.2012. The demolition of the compound wall was declared as illegal and the defendants therein were directed to restore the compound wall. They were also directed to pay a sum of Rs.81,000/- as compensation to the plaintiff. Pursuant to the said decree, E.P. was filed and full satisfaction memo was also recorded. At this stage, the impugned notice has been issued by the local body.

4. If the petitioner intended to put up a compound wall for the first time, then certainly without getting permission from the local body, he cannot put up such a construction. Here the case is that the compound wall that was illegally demolished by the private respondents and the jurisdictional civil Court had directed its restoration. Therefore, the question of the local body finding fault with the petitioner does not arise at all. The impugned notice is quashed.



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W.P.(MD)No.846 of 2017 and

5. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

PMU

To:

1. The Revenue Divisional Officer,
Padmanabapuram,
Thuckalay Post,
Kanyakumari District.

2. The Tahsildar,
Vilavancode Taluk,
Kuzhithurai Post,
Kanyakumari District.

+1 CC to M/s.D. SRINIVASARAGHAVAN, Advocate (SR-25658[F] dated 14/06/2022)

+1 CC to M/s.SPL.GP (SR-26119[F] dated 16/06/2022)

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