



W.P.No.16780 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2023

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.16780 of 2022

C.Vinothkumar

... Petitioner

Versus

1. Deputy Superintendent of Police,
Mayiladuthurai.
2. The District Revenue Officer,
District Collector's Office,
Mayiladuthurai.
3. The Revenue Divisional Officer,
Mayiladuthurai – 606202
4. The Tahsildar,
Taluk Office,
Kuthalam Taluk – 609 801
5. Kaliyamoorthi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to take immediate action pursuant to an order passed by the 3rd respondent bearing No.2411/2021, dated 29.10.2021 and remove the coconut tree.



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For Petitioner : Ms.C.Parkavi
For R1 to R4 : Mrs.P.Rajarajeswari,
Government Advocate

ORDER

The Writ Petition has been filed in the nature of a Writ of Mandamus seeking a direction to the 1st respondent/Deputy Superintendent of Police, Mayiladuthurai, to take necessary action to remove a coconut tree, consequent to an order passed by the 3rd respondent/District Revenue Officer at Mayiladuthurai.

2. The petitioner is residing at No.14/12, OM Kaleeshwarar Sanadhi Street, Kuthalam Taluk, Mayiladuthurai District. The 5th respondent, Kaliamoorthi is a neighbour.

3. The petitioner's house has a tiled roof. Abetting the house, there is a compound wall dividing the petitioner's house and the 5th respondent house. There is a coconut tree which is quite close to the compound wall on the side of the 5th respondent. A photograph has been produced to show that coconut tree, is leaning over the tiled house of the petitioner herein.



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4. It is the grievance of the learned counsel for the petitioner that coconuts fall and also the dry coconut branches fall on the tiles causing damage. This is a recurring fact. In order to solve this, necessary representations have been given by the petitioner herein.

5. The petitioner's representation finally reached the desk of the 3rd respondent, Revenue Divisional Officer at Mayiladuthurai. The said officer had directed that the tree can be cut.

6. It is also seen that it is an old tree. However, before taking that decision, and issuing a mandamus in that regard, this Court had directed notice to the 5th respondent.

7. Notice had been served. But the 5th respondent had taken a conscious decision not to appear before this Court. The name and address of the 5th respondent had also been printed in the cause list. He is not prepared to come before this Court.



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8. The petitioner has a right to protect his property. The petitioner has a right to ensure that the property is not damaged, owing to issues beyond his control which could be reasonably controlled by the orders of the authorities.

9. In the instant case, the 3rd respondent had passed an order that the coconut tree is actually leaning dangerously over the tiled roof house of the petitioner, and is also an old tree and should be cut.

10. This Court wanted the petitioner to plant any other sampling if the coconut tree is cut.

11. Readiness to that extent has been given and a memo had also been filed that the petitioner would plant a guava tree, if the coconut tree is removed.

12. Taking into consideration, the difficulties of the petitioner is put to particularly because the petitioner has a tiled roof house and naturally falling of coconuts would break the tiles and thereby causing more damages



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resulting in loss, I would direct the 4th respondent, Tahsildar, Taluk Office, Kuthalam Taluk, to take immediate steps to cut the coconut tree lying in the premises of the 5th respondent and, also advice the petitioner to plant a guava tree. It would also provide shade and hopefully it will grow without causing obstruction.

13. The Writ Petition stands disposed of. A direction is issued to the 4th respondent/Tahsildar, Kuthalam Taluk to act as directed above. The said direction should be completed within a period of four weeks from the date of receipt of a copy of this order.

15.02.2023

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Index : Yes/No

Internet : Yes/No

To:

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C.V.KARTHIKEYAN,J.

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