



W.P.(MD).No.20690 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

**W.P.(MD).No.20690 of 2022
W.M.P(MD).No.15002 of 2022**

Jobi

... Petitioner

Vs.

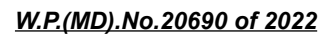
**1.The District Collector,
Kanyakumari District,
at Nagercoil.**

**2.The Block Development Officer,
Munchirai Panchayat Union,
Munchirai,
Kanyakumari District.**

**3.The President,
Thoothur Village Panchayat,
Poothurai,
Kanyakumari District.**

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from installing Fish Market or construct building in Sy.No.243/1B1B of Ezhudesam “C” Village, Kanyakumari District abetting Southern side of



For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader
for R1 and R2
No-appearance for R3

This Writ Petition has been filed in the nature of Mandamus to restrain the respondents from installing fish market or from constructing any building in Survey No.243/1B1B of Ezhudesam “C” Village, Kanyakumari District, in front of the southern side of the house of the petitioner. The writ petitioner, residing at I-2-7, St.Judes Colony, Chinnathurai, Thoothur Post, Kanniyakumari District, had, in his affidavit stated that the second respondent, Block Development Officer, Munchirai Panchayat Union, Muchirai, Kanyakumari District, had taken decision to construct a fish market in front of the petitioner's house on the southern side. It is stated that there are more than 300 families residing in St.Judes Colony, where the petitioner is also residing. There is



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an Anganwadi situated next to the proposed site of the fish market. The petitioner claims that this construction would obstruct her easementary right and would damage the construction of the petitioner's house. It is also stated that it would create heavy and acute water and air pollution and the ground water from the borewell would get contaminated.

2. In the counter affidavit filed by the second respondent, they stated various facts and it is also stated in paragraph No.7 as follows:

7.I respectfully submit that, as per proceedings of the Commissioner, Munchirai Panchayat Union No.A2/782/2022 dated 20.07.2022, Work order was issued to Thiru.C.John Rose, Contractor, Munchirai Panchayat Union for an amount of Rs.9.90 Lakh.

3. It has also been further stated in paragraph No.12 as follows:

12. I respectfully submit that, 1st respondent/District Collector vide proceedings No.A6/42/2022-1 dated 14.12.2022, have issued orders cancelling the said work, and hence contention of the petitioner is already complied.



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4. The District Collector, Kanyakumari, had taken over a prudent decision in cancelling the said work of putting up the fish market in front of the petitioner's house herein. I am confident that the respondents 2 and 3 would abide by such order of the District Collector and also ensure further consequential step to remove the construction which had been so far put up.

5. A picture has been submitted by the learned counsel appearing for the petitioner before this Court which shows that the brick wall alone has been constructed. The Contractor, namely C.John Rose, who had put up, may be directed by the respondents 2 and 3 to remove the construction and level the ground as it was prior to the construction being put up. Since the decision to put up the fish market had been cancelled by the first respondent, no further orders are required in the present writ petition. A direction as aforesaid is however issued to the respondents 2 and 3 to ensure that the construction is removed and the ground is levelled and restored to as it was prior to the construction being put up by the Contractor.



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6. Accordingly, this Writ Petition stands disposed of. Time is granted for such removal of the construction so put up is within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2023

Index: Yes/No
Internet: Yes/No
ssb

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C.V. KARTHIKEYAN, J.

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