



W.P.(MD)No.21430 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.21430 of 2021

M.Selvakumar

... Petitioner

-VS-

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Director,
Rural Development, Pangal Maligai, Saidepet,
Chennai 15.
- 3.The Commissioner,
Thirumangalam Panchayat Union, Thirumangalam,
Madurai District.
- 4.The Village President,
A.Kokkulam Village Panchayat,
Thirumangalam Taluk, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to take appropriate action to prevent piling of garbage in the petitioner's property comprised in S.No.27/5A1, A.Kokkulam Village, Thirumangalam Taluk, Madurai District, and consequently, direct the respondents to made a proper permanent fencing for garbage yard at S.No.1/1, A.Kokkulam Village, Thirumangalam Taluk, Madurai District.



W.P.(MD)No.21430 of 2021

For Petitioner : Mr.S.Balamurugan
For R1 to R3 : Ms.S.Jeyapriya
Government Advocate
For R4 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to take action based on the representation made by the petitioner on 23.08.2021 and not to pile up garbage in the property belonging to the petitioner in Survey No.27/5A1, at A.Kokkulam Village, Thirumangalam Taluk, Madurai District.

2. Heard the learned counsel appearing on behalf of the petitioner, the learned Government Advocate appearing on behalf of the respondents 1 to 3 and the learned Special Government Pleader appearing on behalf of the fourth respondent.

3. The grievance of the petitioner is that the respondents are piling up garbage at Survey No.1/1 and no proper arrangements have been made to fence the garbage yard and as a result, the garbage also gets into the property of the petitioner in Survey No.27/5A1.



W.P.(MD)No.21430 of 2021

4. The fourth respondent filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"3. I submit that the contentions of the petitioner that the 4th respondent is now dumping the garbage without any scientific manner in S.No.1/1 and that the subordinates of 4th respondent instead of dumping the garbage in the earmarked place are dumping the garbage in the pathway leading to the earmarked place and that the petitioner's property is adjacent to the pathway and that thereby every day the garbage are indirectly dumped into his property by the subordinates of the 4th respondent and that no proper fence was made in the garbage yard and thereby through wind and by other means the garbage are ultimately landed in the petitioner's property and that in view of the same the petitioner is facing untold hardship and that his land is also getting polluted are all denied as false and these averments are made with ulterior motive and there is no truth in the allegations. As a matter of fact the garbage are dumped into the earmarked place in a manner which is not harmful to any public or land and this respondent had properly fenced the earmarked place so that the garbage are not passing from the earmarked place. It is submitted that the dumping of garbage in the S.No.1/1 is not harmful to anybody including the petitioner. Hence the contentions of the petitioner are to be rejected.



W.P.(MD)No.21430 of 2021

4. It is submitted that as a matter of fact the Assistant Director of Panchayat had requested for transfer of name and possession in favour of the 3rd respondent herein for an extent of 0.81.0 hectares in S.No.1/1 of A. Kokkulam Village for the purpose of solid waste management and compost yard out of 18.38.0 hectares of land called as Thengamalai and classified as Government poramboke. The 1st respondent District Collector after receiving a report from the Revenue Divisional Officer of Thirumangalam and Tahsildar of Thirumangalam Taluk and after careful consideration had granted permission for formation of compost yard by subdividing the 0.81.0 hectares of land with specific boundaries as S.No.1/3 in the name of the 3rd respondent Panchayat Union by proceedings dated 24.06.2021. Subsequent to that the land was given in possession to the 4th respondent for the purpose of compost yard and the 4th respondent had made proper fence with Tin sheets surrounding the earmarked place with an opening for movement of garbage carrying vehicle to dump the garbage which were brought from the Village and the 4th respondent through his subordinates is dumping the garbage in the dead end boundary from entrance so that the garbage are not flown to the adjacent land and the 4th respondent at regular intervals is also compressing the garbage with the help of JCB to avoid the passing of garbage through air.

5. It is submitted that based upon the request of this 4th respondent, the Block Development Officer of Thirumangalam



W.P.(MD)No.21430 of 2021

Panchayat Union had sought for grant of fund and administrative sanction for the purpose of formation of micro composting Centre in the place. Once the administrative sanction is granted and funds are allotted, the entire area in S.No.1/3 will be fenced with brick wall and concrete structure and the garbage will be converted into fertilizer. The 4th respondent had now decided to close the entrance also with tin sheet gate and taking steps for the same. It is submitted that the tin sheet fence also made only as a temporary measure till the formation of the Micro Composting Centre in the earmarked place and after sanction and allotment of fund, the Area will be fenced with brick wall and concrete structure satisfying the norms prescribed for the formation of micro composting Centre Hence, the apprehension of the petitioner that the lands will get polluted is unwarranted. Furthermore as stated already the petitioner had filed the Writ Petition with ulterior motive in order to create records regarding pathway claimed by the petitioner and to squat the government land for the purpose of creating a pathway to his land and there are no merits in the Writ Petition. As stated already there exists no public pathway as claimed by the petitioner and as a matter of fact, there exists a private Patta land in between the S.No. 27/5A1 and the S.No.1/1. Hence the contention of the petitioner that garbage are landed into his property are all denied as false. The other adjacent land owners had not raised any complaint and only the petitioner who is dealing with real estate business and who plans to convert his lands into Plots had filed the writ petition with false



W.P.(MD)No.21430 of 2021

allegations with an apprehension that his land value will be decreased due to the garbage compost yard. It is submitted that as stated already the area has been properly fenced and there is no piling of garbage in the petitioner's property as alleged by the petitioner. The survey Map and photographs annexed in the typed set of papers itself will prove that the contentions of the Petitioner are false owing to then location of the properties and the steps taken by this Petitioner. This respondent further submits that the 4th respondent is maintaining the compost yard in a way which is not detrimental to the general public and the lands situated adjacent to it. Hence there is no truth in the contentions of the Writ Petitioner. It is therefore most respectfully prayed that this Hon'ble Court may be pleased to dismiss the Writ Petition as devoid of merits or otherwise the noble intention to form and maintain a micro compost Centre to avoid piling and dumping of garbage in the bus stand as has been in the practice in the early days will be affected, since the Petitioner had filed the Writ Petition with false allegations and with ulterior motive."

5. There is no dispute with regard to the fact that the petitioner is the owner of the land in Survey No.27/5A1. The learned Special Government Pleader appearing on behalf of the Panchayat Union submitted that presently, the garbage is collected at Survey No.1/3 and the garbage yard has been



W.P.(MD)No.21430 of 2021

properly fenced. That apart, steps are also being taken to construct a composite yard at Survey No.1/1. The learned Special Government Pleader further submitted that the Panchayat Union is awaiting for the sanction.

6. In the considered view of this Court, if arrangement is made to ensure that the garbage does not get into the property of the petitioner in Survey No.27/5A1, that will sufficiently take care of the grievance expressed by the petitioner. Presently, the garbage is collected at Survey No.1/3. According to the petitioner, the property has not been properly fenced and as a result, the garbage gets into the property of the petitioner. There is also a proposal for constructing the composite yard at Survey No.1/1.

7. In view of the above, there shall be a direction to the respondents 3 and 4 to properly fence the present garbage yard and ensure that the garbage does not get into the property belonging to the petitioner. The respondents 3 and 4 shall have a single opening to ensure that the vehicle gets inside the place and all other sides are properly closed. Immediate steps shall also be taken to get the administrative sanction for constructing the composite yard.



W.P.(MD)No.21430 of 2021

8. This Writ Petition is disposed of in the above terms. No costs.

WEB COPY

NCC : Yes/No
Index : Yes/No
SMN2

20.11.2023

To

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Director,
Rural Development, Pangal Maligai, Saidepet,
Chennai 15.
- 3.The Commissioner,
Thirumangalam Panchayat Union, Thirumangalam,
Madurai District.
- 4.The Village President,
A.Kokkulam Village Panchayat,
Thirumangalam Taluk, Madurai District.



WEB COPY



W.P.(MD)No.21430 of 2021

N.ANAND VENKATESH, J.

SMN2

W.P.(MD)No.21430 of 2021

20.11.2023