



WEB COPY



W.P.No.9021 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.9021 of 2020

and

Contempt Petition No.2429 of 2023

and

W.M.P.No.10974 of 2020

W.P.No.9021 of 2020

C.Seenuvasan

... Petitioner

Vs.

1.The Divisional Engineer,
Construction and maintenance,
Highways Department,
Kallakurichi – 606 202,
Kallakurichi District.

2. The Assistant Director,
Fisheries, Villupuram,
Villupuram District.

3. Moolasamudram Inland Fishermen's Co-operative Society,
Rep. by its President, Mr.S.Thirupathy.

(R3- impleaded vide order dated 12.08.2022 made in WMP.13930/2020 in
WP.9021/2020 by AQJ) ... Respondents



W.P.No.9021 of 2020

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records of the impugned permission order dated 11.02.2020 in Na.Ka.No.3821 of 2019/E.Va.Aa (1) issued by the 1st respondent and quash the same, consequently forbear the 1st respondent from granting any permission to run a Fish Stall or any other activities in front of the petitioner's land.

Contempt Petition No.2429 of 2023

C.Seenuvasan

... Petitioner

Vs.

1.Mr.Ram Kumar,
The Divisional Engineer,
Construction and Maintenance,
Highways Department,
Kallakurichi – 606 202,
Kallakurichi District.

2. Mrs.Nithya Priyadarshini,
The Assistant Director,
Fisheries, Villupuram,
Villupuram District.

3. Mr.S.Thirupathy,
The President,
Moolasamudram Inland Fishermen's
Co-operative Society.

... Respondents



W.P.No.9021 of 2020

Prayer : Petitions filed under Section 11 of the Contempt of Courts Act, 1971, to punish the Respondents for disobedience of this Hon'ble High Court Order dated 14.07.2020 in W.P.No.9021 of 2020.

For Petitioner
in both the cases : Mr.K.Balu

For Respondents
in both the cases : Mr.P.Bala Thandayutham,
Special Government Pleader,
(for R1 & R2);

Mr.John Joseph (for R3)

COMMON ORDER

The writ petition has been instituted questioning the validity of the permission granted by the Divisional Engineer, Construction and Maintenance, Highways Department, in a proceeding dated 11.2.2020, granting permission to the 3rd respondent Society to construct a fish stall.

2. The learned counsel for the petitioner Mr.K.Balu, submitted that the petition had sought for to construct a fish stall opposite to Bharathidasan Educational Institution at Udundurpet Town Panchayat in



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Survey No. 392/1B2A . However, by taking undue advantage of the license granted through the impugned order dated 11.02.2020, the 3rd respondent has attempted to construct a fish stall in front of the land which belongs to the petitioner obstructing the free access to Survey No. 392/1B/2B2. The construction of the fish stall in front of the property belongs to the petitioner resulted in greater inconvenience to the petitioner to have free access to his property and to develop his property.

3. Admittedly the permission was granted in Highway land. The Highway lands are to be mainly utilised for road expansion projects and not intended to cause inconvenience to the land owners, who possess lands adjacent to the National Highways. Mr.Balu would further submit that the impugned license dated 11.02.2020 was granted for a period of one year and the period expired on 10.02.2021. Condition No.9 stipulated in the license would reveal that the 3rd respondent shall not construct any building in the National Highways or encroach upon the National Highways land. The Condition No.10 in the license also states that in the event of constructing fish stall, it should not cause any inconvenience to the people of that locality.



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4. This Court granted an order of status quo. Since the interim order has been violated, the petitioner filed a contempt petition. In order dated 18.10.2023, the Assistant Director of Fisheries has interpreted the interim order of status quo by stating that status quo orders granted by the High Court in writ proceedings are valid only for 6 months in view of the orders passed by the Hon'ble Supreme Court of India. The learned counsel for the petitioner would submit that the Assistant Director of Fisheries has no jurisdiction to interpret the interim order of the High Court in such a manner which amounts to contempt of Court. Even in such circumstances, the authorities have to file a petition to vacate the stay or to get clarification from the High Court. Unilateral interpretation of the High Court order, beyond the scope of the interim order, is impermissible. Though, a vacate stay petition has been filed by the respondent in the present writ petition, no order has been passed and it is kept pending, and under those circumstances, the respondents have interpreted the interim order of status quo that is it is valid only for 6 months.

5. May that as it be. The fact remains that the permission granted through the impugned order on 12.02.2020, expired on 10.02.2021. It is not a permanent construction which was made but only a temporary



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construction to run the fish stall. It is brought to the notice of the Court that the fish stall is not in operation right from the year 2020. The license was not renewed nor its period was extended. That being the case, the respondents shall not run the fish stall in that particular locality and the temporary construction made is to be dismantled. Since the temporary construction is now standing without any license or permission, the same is to be construed as an unauthorised construction in the State Highways land and therefore, the State Highways Authority are bound to dismantle the temporary construction made by the 3rd respondent.

6. The respondents are directed to dismantle the temporary construction within a period of two (2) weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected contempt petition and miscellaneous petition are closed.

12.01.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)



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Kallakurichi – 606 202,
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2. The Assistant Director,
Fisheries, Villupuram,
Villupuram District.



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W.P.No.9021 of 2020

S.M.SUBRAMANIAM. J.,

(sha)

W.P.No.9021 of 2020

and

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