



W.P.(MD)No.11768 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.11768 of 2024

and

W.M.P.(MD)No.10512 of 2024

C.Ramesh

: Petitioner

Vs.

1.The Sub-Collector,
Collectorate Buildings,
Thuckalay, Kanyakumari.

2.The Thasildar,
Vilavankadu Taluk,
Kanyakumari.

3.The Commissioner,
Kulithurai Municipality,
Kulithurai,
Kanyakumari.



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4.The Joint Director,
Health Department,
Kulithurai Municipality,
Kulithurai, Kanyakumari.

5.The Superintendent of Police,
Kanyakumari District.

6.F.Balu

7.S.Darvin

8.J.Parmiyans

9.T.Suji

10.D.John Anrani

11.N.Raymant

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 to 5 to take necessary action by forbearing the 6th and 11th respondents from utilizing the 'Punitha Savier Kallarai Thotham, Marthandam' as fishing market and consequently to shift the fishing market to alternative place.

For Petitioner : Mr.R.Saravanan

For Respondents 1 to 4 : Mr.P.Thilak Kumar

Government Pleader

For Respondent No.5 : Mr.S.S.Madhavan

Government Advocate [Crl. Side]



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ORDER

[Order of the Court was made by R.SURESH KUMAR, J.]

The prayer sought for herein is for a Writ of Mandamus, directing the respondents 1 to 5 to take necessary action by forbearing the 6th and 11th respondents from utilizing the 'Punitha Savier Kallarai Thotham, Marthandam' as fishing market and consequently to shift the fishing market to an alternative place.

2.The place called Punitha Savier Kallarai Thotham at Marthandam is a cemetery and in and around the cemetery there has been a vacant place which all belongs to the Church. The Father incharge of the Church, to have a temporary arrangement for the fishing traders, as the regular fishing market is under construction for a new building which will take atleast one year, had permitted the fishing traders to use the frontage of the property which is abutting the main road, where the fishing traders are using that space as a temporary fishing market. That arrangement made by the Church Father is under challenge by way of a Public Interest Litigation.



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3.Heard the learned Counsel appearing for the parties.

4.Learned Government Pleader as well as the learned Government Advocate [Crl. Side] appearing for the official respondents, on instructions, would submit that, the land wherein now the temporary fishing market is permitted belongs to the Church and therefore, such permission has been given by the Father of the Church only for the benefit of the local public. Moreover, since the regular fishing market building work has already commenced and it may take atleast another 12 months, for this period, as a temporary measure this arrangement has been made.

5.From the police point of view, there has been no hindrance to the traffic flow and the temporary fishing market would not affect anybody's right or ingress and egress of the pathway leading to the road or to the cemetery. The Municipality called Kulithurai Municipality had taken necessary measures to maintain the hygienic condition of the market.



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6.When this was the position under which the temporary fishing market has been permitted to go on in the place called the frontage of the Church property, that too permitted by the Father of the Church, it is not a hindrance to anyone according to the report submitted by the learned Government Pleader appearing for the official respondents, hence we do not find that the prayer sought for in this writ petition can be considered and granted.

7.The petitioner being one of the member of the Church also would be benefited out of the fishing market and like him so many members of the Church and the local people would also get benefited as the fishing market is a daily affair and a suitable place is required to be allotted, for which the Church Father has come forward to offer the land which is to be appreciated. Therefore, the prayer sought for in this writ petition is not worthy to be considered for granting the relief as sought for.



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8.Resultantly, this Writ Petition fails and the same is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]

06.06.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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and
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ORDER MADE IN
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