



W.P(MD)No.22762 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.22762 of 2023
and
W.M.P(MD)No.19017 of 2023**

Rajan

... Petitioner

vs.

1 The District Collector,
Kanyakumari District,
At Nagercoil

2 The Assistant Director of Panchayat,
Collectorate Building, Nagercoil,
Kanyakumari District.

3 The Block Development Officer (Village Panchayat),
Munchirai,
Kanyakumari District

4 The Panchayat President
Painkulam Panchayat,
Kanyakumari District

5 Ratheesh

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4, to consider the petitioner's objection, dated 10.08.2023 and to demolish the illegal and unauthorized construction made by the 5th respondent in R.S.No. 353/6A of Thengapattinam Village, Killiyoor Taluk,



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Kanyakumari District and consequently not to grant any building plan approval pending disposal of the civil suit in O.S.No.110 of 2021 pending on the file of the learned Subordinate Court at Kuzhithurai.

For Petitioner	: Mr.M.R.Sreenivasan
For R-1 to R-4	: Mr.T.Amjad Khan, Government Advocate
For R-5	: Mr.C.Kishore

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 4, to consider the petitioner's objection, dated 10.08.2023 and to demolish the illegal and unauthorized construction made by the 5th respondent in R.S.No.353/6A of Thengapattinam Village, Killiyoor Taluk, Kanyakumari District and consequently, not to grant any building plan approval pending disposal of the civil suit in O.S.No.110 of 2021 pending on the file of the learned Subordinate Court at Kuzhithurai.

2. The learned counsel appearing for the petitioner would submit that there is a dispute pending between the petitioner and the fifth respondent resulting in initiation of civil suit in O.S.No.110 of 2021 on the file of the Sub-Court, Kuzhithurai and therefore, the petitioner has made a



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representation before the authorities not to grant any building plan approval to the fifth respondent, pending disposal of the said civil suit.

3. The learned counsel appearing for the fifth respondent would contend that the prayer sought for by the petitioner cannot be entertained on the ground that without getting interim orders from the civil Court, the petitioner has approached this Court with the aforesaid prayer and therefore, the writ petition is liable to be dismissed.

4. We have heard the submissions made on either side and perused the materials placed before us.

5. We are of the view that when the petitioner has already filed a civil suit in O.S.No.110 of 2021 on the file of the Sub-Court, Kuzhithurai, and the same is also pending and no interim order has been obtained from the civil Court, now seeking for a direction to the respondents 3 and 4, not to grant any building plan approval to the fifth respondent, is unacceptable and such relief cannot be granted by this Court.

6. Insofar as the unauthorised construction put up by the fifth respondent is concerned, it is always open to the third respondent, to take action for such unauthorized construction.



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7. With the above observations, this writ petition stands disposed of.

No Costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
13.03.2024

NCC : Yes / No
Index : Yes / No
PM

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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

PM

ORDER MADE IN
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