

W.P.(MD)No.7312 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.7312 of 2025
and W.M.P(MD).No.5507 of 2025

M.Paulraj

... Petitioner

Vs.

1.The Assistant Executive Engineer,
Town Panchayats,
Nagercoil, Kanyakumari District.

2.The Executive Officer,
Karungal Town Panchayat,
Karungal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second respondent not to cancel the work orders issued by the second respondent vide proceedings Na.Ka.No.859/2024/A1 dated 15.10.2024 for the demolition of building in northern side of the bus-stand for the amount of Rs.9,50,000/- and another work order by the second respondent vide proceedings Na.Ka.No.859/2024/A1 dated 15.10.2024 for the demolition of building in Southern side of the bus stand for the amount of



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Rs.8,00,000/- and consequently directing the second respondent to permit the petitioner to commence the work in pursuant to the issuance of two work order issued by the second respondent dated 15.10.2024.

For Petitioner : Mr.G.Sailendrababu
For Respondents : Mr.G.Suryananth (for R1)
Additional Government Pleader
Mr.D.Sasikumar (For R2)
Additional Government Pleader

ORDER

The petitioner seeks for a mandamus to direct the second respondent not to cancel the work order issued by the second respondent on 15.10.2024 for demolishing of building on the norther and southern side of the Karungal Town Panchayat Bus-stand situated at S.No.607/23, 607/15 and 609/7 of Karungal Village.

2. The petitioner claims that he was issued a work order on 15.10.2024 to complete the work related to dismantling the buildings situated on the northern and southern sides of the aforementioned bus-stand, at an estimated costs of Rs.9.50 lakhs and Rs.8 lakhs respectively. He pleads that subsequently, the Panchayat decided to cancel the work

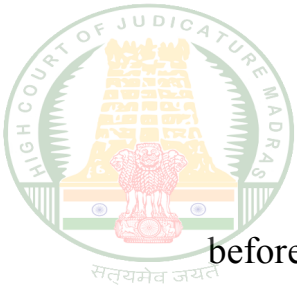


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order through a resolution dated 10.03.2025. Hence, he has come forward with the present writ petition.

3. When the matter came up for admission, Mr.G.Suriyananth, learned Additional Government Pleader, appeared for the first respondent and Mr.D.Sasikumar, learned Additional Government Pleader, appeared for the second respondent. Both of them stated that the tender is yet to be processed. Hence, I granted an order of status-quo and granted the time they sought for.

4. When the matter came up for hearing today (i.e., 24.03.2025), Mr.D.Sasikumar had filed an affidavit on behalf of the second respondent. The affidavit states that the Assistant Executive Engineer attached to the Office of the Assistant Director of Town Panchayat, Kanyakumari Zone, conducted a re-inspection of the building and filed a report on 10.01.2025. It is pleaded in the counter that, in case, an auction is held to demolish the dilapidated building, together with the right to remove all the debris and clear the area, there is a strong possibility of augmenting the income of the Town Panchayat. This report was placed



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before the Town Panchayat and consequently, an unanimous resolution was passed on 10.03.2025. The counter affidavit also states that it is proposed to farm out the right to demolish by way of an auction and that, in such an auction, the petitioner will be at liberty to participate ,if he so desires.

5. Mr.D.Sasikumar also states that it is not the intention of the Town Panchayat Council to cause any loss to the petitioner. Since the cancellation was initiated by the Town Panchayat, it has decided to return to the petitioner all the amounts received from him, such as schedule fees, tender deposit fees without making any deduction to the same. In addition, he brings to my notice the agreement entered into between the writ petitioner and the Karungal Town Panchayat on 21.10.2024 whereunder an arbitration clause has been contemplated in clause (d).

6. I have gone through the papers and heard the counsels.

7. It is not a case of a recall of a tender. A tender is an invitation to offer. It can be recalled at any time before it fructifies into a contract. In



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this case, the petitioner was not only successful in the tender, but was also issued a work order by the second respondent. Therefore, a concluded contract had been formed into between the petitioner and the second respondent. The nature of a contract is to demolish and remove the building situated on the northern and southern side of the bus-stand under the control of Karungal Town Panchayat. It is an executable contract and can be terminated at any time. There cannot be a mandamus directing the second respondent to permit the petitioner to complete the contract, when the second respondent is not interested to proceed further with the work contract. The petitioner is not without a remedy. In terms of the form of agreement dated 21.10.2024, incase the petitioner has suffered damages, he is always entitled to invoke an arbitration clause under clause (d), as the claim exceeds Rs.8 Lakhs and it does not fall under any of “excluded matters under Clause (a) to (c)”. Therefore, leaving it open to the petitioner to invoke the arbitration clause, this Writ Petition is dismissed.

8. The statement of Mr.D.Sasikumar that, as and when an auction for the purpose of demolishing and removing the scrap from the northern



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and southern buildings inside the bus-stand is called for, the petitioner will be entitled to participate in the same, is recorded as an undertaking given to this Court by the second respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

Index :Yes / No
NCC :Yes / No
Rmk

24.03.2025

To

1.The Assistant Executive Engineer,
Town Panchayats,
Nagercoil, Kanyakumari District.

2.The Executive Officer,
Karungal Town Panchayat,
Karungal.



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V. LAKSHMINARAYANAN, J.

Rmk

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