

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE Dr.JUSTICE P.DEVADASS

W.A.No.1674 of 2015
and
M.P.No.1 of 2015

V.Chinnathambi .. Appellant

Vs.

1.T.K.Arumugam

2.The Executive Officer,
Selection Grade Town Panchayat,
Tharamangalam, Omalur Taluk,
Salem District.

3.The Assistant Director of Panchayat,
Salem. ... Respondents

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 28.08.2015 passed in W.P.No.22075 of 2015.

Petition presented under Art 226 of the Constitution of India to issue a writ of mandamus directing the respondents to hand over the possession of the public toilet at the bus stand in Tharamangalam Salem District to the petitioner as per the lease dated 25.02.2015 for a period of one year from the date of handing over the possession.

For Appellant : Mr.K.Premkumar

For Respondents: Mr.S.Doraisami for R-1
Mr.V.Jayaprakash Narayanan for R-2
Mrs.A.Srijayanthi, Spl.G.P for R-3

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The appellant, on seeking leave of this court to prefer the instant appeal, has challenged the legality and validity of the order dated 28th August, 2015 passed in W.P.No.22075 of 2015.

2 According to the appellant, the appellant was not impleaded as party respondent in the writ petition. Thus the order deserves to be set aside.

3 Indisputably, the appellant was granted lease for collection of tolls for the period from 2012-2013 to 2014-15 for pay and use toilet at the bus stand. The said permission came to an end on 31st March, 2015. The second respondent conducted an auction for allotment of lease. The appellant did not participate in the auction. Thus, he was not made as a party respondent to the writ petition.

4 The learned Single Judge, recording the submissions of the learned Special Government Pleader to the extent that the public toilet, after doing repair work in the toilet buildings as well as in the storage tank, would be handed over to the writ petitioner/ first respondent herein, who was the successful bidder, disposed of the writ petition, directing the respondents therein to complete the repair work and maintenance work and hand over the same to the writ petitioner within a period of six weeks.

5 The contention of the learned counsel for the appellant is that the lease of the appellant for the period till 31st March, 2015 was abruptly terminated. Questioning the said termination, the appellant has filed a suit in O.S.No.72 of 2015 on the file of the District Munsif Court, Omalur and the same is pending consideration. Thus, the appellant was the necessary party. A copy of the plaint is annexed herewith.

6 The relief sought for in the plaint is permanent injunction, restraining the defendants, i.e. respondents herein, from disturbing his possession over the suit property and also for a direction to reconstruct the septic tank and to lay pipelines to make the suit property fit for use and also to refix the rent and to extend the lease. Indisputably, no interim injunction was granted by the civil court.

7 Be that as it may, without going into the merits of the case, as the lease of the appellant came to an end on 31st March, 2015 and he had not participated in the auction proceedings, the appellant has no right to be impleaded as proper respondent in the writ petition. There is no illegality or infirmity in the order sought to be impugned in the writ appeal.

8 Resultantly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vvk

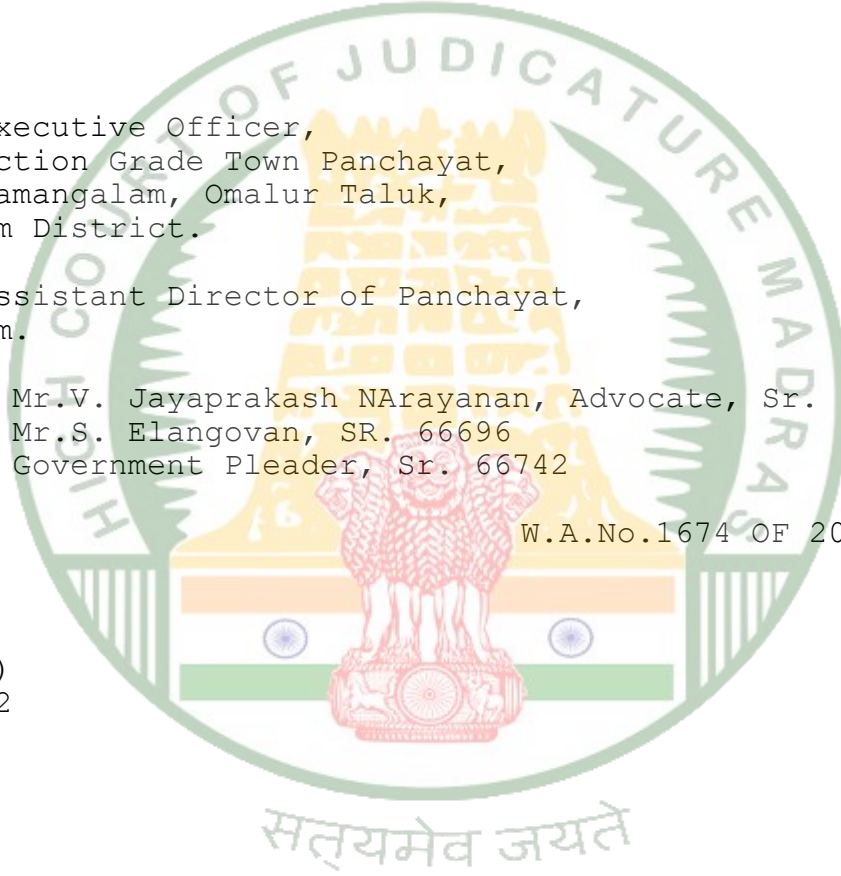
To

- 1.The Executive Officer,
Selection Grade Town Panchayat,
Tharamangalam, Omalur Taluk,
Salem District.
- 2.The Assistant Director of Panchayat,
Salem.

- 1 cc to Mr.V. Jayaprakash Narayanan, Advocate, Sr. 66746
1 cc to Mr.S. Elangovan, SR. 66696
1 cc to Government Pleader, Sr. 66742

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