

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.3320/2015 & MP.No.1/2015

G.Thangaraj

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Petitioner

Versus

1.The Secretary

Government of Tamil Nadu
Department of Municipal Administration
Secretariat, Fort St. George,
Chennai.

2.The Secretary

Government of Tamil Nadu
Department of Revenue
Secretariat, Fort St George
Chennai.

3.The Executive Officer

Kadayampatty Town Panchayat
Salem District, Salem.

4.The President

Kadayampatty Town Panchayat
Salem District, Salem.

..

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 3rd respondent in ROC No.69/2014 dated 30.01.2015, quash the same and consequently to direct the respondents to lay a thar road on the western side of the Weekly Shandy situated in Survey No.423, Kadayampatty village leading from kadayampatty village belonging to Venkatachalam.

For Petitioner : Mr.M.L.Ramesh

For RR 1 & 2 : Mr.V.Jayaprakash Narayanan, Spl.GP

For RR 3 & 4 : Mr.M.S.Ramesh, AGP

ORDER

Heard Mr.M.L.Ramesh, learned counsel for the petitioner ; Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.M.S.Ramesh, learned Additional Government Pleader appearing for the respondents 3 and 4 and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner has filed this writ petition praying for a writ of certiorari to quash the proceedings of the 3rd respondent dated 30.01.2015. By the said proceedings, the petitioner's request to lay a road in the land in question has been rejected stating that the President of the Village Panchayat has no right to provide path for Weekly Shandy which is a patta land comprised in the Survey No.423 of Kadayampatty Town Panchayat.

3.Earlier the petitioner approached this Court by filing a writ petition in WP.No.595/2015 seeking for a direction to the respondents to lay a road on the western side measuring 150 mts x 7 mts in Survey No.423 based on the Resolution No.1 [471] dated 10.09.2014 passed by the President, Kadayampatty Town Panchayat. This Court, by order dated 12.01.2015 directed the respondents 2 and 3 to consider the petitioner's representation on merits and in accordance with law, pursuant to which, the present impugned order in this writ petition has been passed. Earlier, it appears that the President of the Town Panchayat would state that the resolution was passed by the Town Panchayat on 10.09.2014 and when the subject was placed before the Council, the Executive Officer submitted a note on the subject to the Council that as per G.O.Ms.No.96 dated 18.07.2000, Weekly Shandy is a pure patta land and it can be assigned only by the Government to the Government and Cooperative Institution by the same. It is further stated that though the Council was aware of the said Government Order, pendency of the Court case, it passed the resolution which is contrary to the earlier resolutions dated 12.07.2013 and 22.08.2013. Therefore, a stand has been taken in the impugned order that the resolution dated 10.09.2014 which is inconsistent with the Government Order and the earlier resolutions are not binding on the Town Panchayat.

4.Thus, the issue which has fallen for consideration is whether the Council of the Town Panchayat, Kadayampatty, has passed the resolution dated 10.09.2014 ignoring G.O.Ms.No.96 dated 18.07.2000 and its earlier resolutions dated 12.07.2013 and 22.08.2013. This issue has to be examined at higher level and therefore, this Court is of the view that the District Collector, Salem, should examine the entire matter.

5. Accordingly, there will be a direction the 3rd respondent to place the entire files containing Resolutions dated 12.07.2013 ; 22.08.2013 and 10.09.2014 along with G.O.Ms.No.96 dated 18.07.2000 along with all the objections which have been raised by the petitioner and others and the particulars regarding the suit in OS.No.54/2014 within a period of one week from the date of receipt of a copy of this order.

6. On the matter being placed before the District Collector, Salem, the District Collector, Salem District shall issue notice to the petitioner as well as to the respondents 3 and 4 ; conduct an enquiry and consider the matter in its entirety and take a decision by concluding the proceedings and pass a reasoned order on merits and in accordance with law within a period of three weeks thereafter. Till such time of passing the final order by the District Collector, the status quo prevailing as on date, shall be maintained.

7. The writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

AP

To

1. The Secretary
Government of Tamil Nadu
Department of Municipal Administration
Secretariat, Fort St. George,
Chennai.

2. The Secretary
Government of Tamil Nadu
Department of Revenue
Secretariat, Fort St George
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3. The Executive Officer
Kadayampatty Town Panchayat
Salem District, Salem.

4.The President
Kadayampatty Town Panchayat
Salem District, Salem.

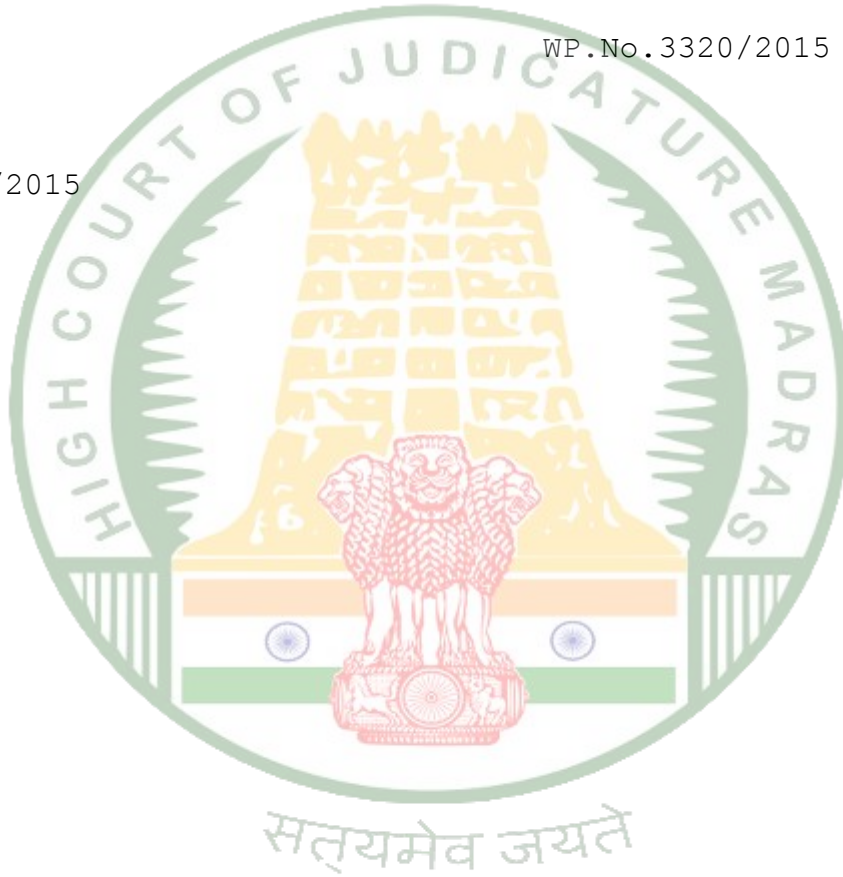
Copy to:-
The District Collector
Salem District, Salem.

+1cc to Government Advocate Sr.7294

+1cc to M/S.M.L.Ramesh Advocate Sr.7248

WP.No.3320/2015 and MP.No.1/2015

SAI (CO)
rvr 21/02/2015



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