

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.33573 of 2015 and M.P.No.1 of 2015

P.Dhanalakshmi

No.3/267 Parapatti Kattuvalavu,
Olaipatti Village, Mettur Taluk,
Salem District.

...PETITIONER

Vs.

1 The District Collector
Salem District. Salem.

2 The Revenue Divisional
Officer Mettur Taluk Mettur. Salem
District.

3 The Tahsildar
Mettur Taluk Mettur. Salem District.

4 The Executive Engineer
Construction & Maintenance Public Works
Department Salem-7. Salem District

..... RESPONDENTS

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, calling for the records relating to the order of the 3rd Respondent dated 01.10.2015 in Na.Ka.No.11446/2015-B5 and quash the same and consequently forbear the Respondents from constructing the Public Toilet in the lands in Survey No.245/1 Olaipatti Village Mettur Taluk Salem District and thereby preventing the ingress and egress of the petitioner to her hut at Survey No.245/2B Olaipatti Village Mettur Taluk Salem District.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.S.Diwakar, A.G.P.

O R D E R

The petitioner has come forward to file the present writ petition challenging the order, dated 1.10.2015 which has been passed in pursuant to the order passed earlier by this Court in W.P.No.17936 of 2015, dated 23.6.2015.

2 The learned counsel for the petitioner submitted that order passed by this Court has not been followed by letter and spirit. The order impugned has been passed by non application of mind. Therefore, the same will have to be set aside especially when proposed construction will affect the ingress and egress to the petitioner's property.

3 The learned Additional Govt. Pleader submitted that it is the petitioner who encroached the Government pathway in survey No.242/1. There is also sufficient space available to reach the petitioner's land in survey No.242/2B. There is nobody living in the thatched building put up by the petitioner. Petitioner is at present living in survey No.219/6. Therefore, no interference is required.

4 In a matter like this, this Court shall not exercise power of judicial review against the impugned order. There is 23 ft. pathway available to reach the petitioner's property in which the petitioner is not at present residing. He has also said to be encroached the part of land in survey No.244/1. He is said to be residing in survey No.219/6. The order also says that there is no hindrance to the enjoyment of his private land. It is further to be seen that the object is to construct a public toilet and proper permission has also been obtained from the local body in this regard.

5 Considering the above, this Court does not find any reason to allow the writ petition. Thus, the writ petition stands dismissed accordingly. However, liberty is given to the petitioner to file comprehensive civil suit before the competent Court. As and when the civil suit is filed, the competent civil Court shall decide the suit without being influenced by the order passed herein. It is further made clear that all issues are left open to be decided by the competent civil Court. Considering the facts of the case, there shall be an order of status quo so as to enable the petitioner to approach the competent civil Court.

The Writ petition stands dismissed accordingly. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

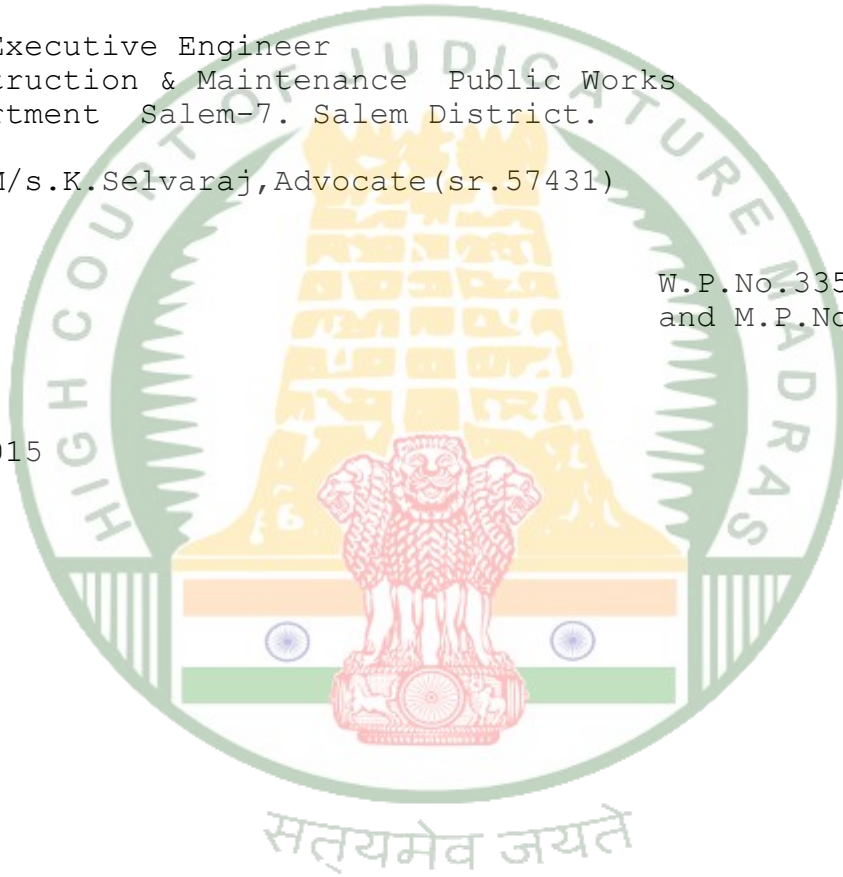
To

- 1 The District Collector
Salem District. Salem.
- 2 The Revenue Divisional
Officer Mettur Taluk Mettur. Salem
District.
- 3 The Tahsildar
Mettur Taluk Mettur. Salem District.
- 4 The Executive Engineer
Construction & Maintenance Public Works
Department Salem-7. Salem District.

+1 cc to M/s.K.Selvaraj, Advocate (sr.57431)

W.P.No.33573 of 2015
and M.P.No.1 of 2015

mp (co)
cp 2/11/2015



WEB COPY