

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35596 of 2015

and

M.P.Nos.1 and 2 of 2015

Mamundi Agraharam Village Panchayath
rep. By its President,
Mallasamudiram, Tiruchangodu - Taluk
Namakkal District - 638 182

...Petitioner

Vs.

1. The District Collector,
Namakkal District,
Namakkal.
2. The Block Development Officer (Rural)
Mallasamudiram Panchayath Union,
Mallasamudiram, Tiruchangodu - Taluk,
Namakkal District
3. The Inspector of Police,
Mallasamudiram Police Station,
Mallasamudiram, Tiruchangodu - Taluk,
Namakkal - District

4. P.Shanmugam

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 17.07.2015 made in Na.Ka.No.3471/2014/Thi.1 passed by the second respondent and quash the same and consequently forbear the 4th respondent from laying the pipe lines from Survey No.70/2 to Survey No.155/6C and 155/6A through S.No.70/1, 163/6, 162/2 and 160 situated at Mamundi Village Mallasamudiram Via, Tiruchangode Taluk, Namakkal District.

For Petitioner:M/s Pitty Parthasarathy

For Respondents:Mr.R.Rajeswaran

Special Government Pleader for R-1 and 3

Mr.D.Suriya Narayanan for R2

Mr.C.Prakasam for R4

O R D E R

The petitioner is the Village Panchayath represented by its President. He is aggrieved by the order dated 17.07.2015 in and by which the 2nd respondent has permitted the 4th respondent to lay a pipeline. The petitioner/Panchayath would object that the impugned order is illegal, without opportunity to the petitioner and flouting all norms.

2. The 4th respondent filed a Writ Petition before this Court in W.P.No.527 of 2015 challenging the proceedings of the petitioner herein dated 29.12.2014. The said Writ Petition was dismissed with certain observations/directions. The operative portion of the order reads as follows:-

" ...5. In the light of the above, the petitioner is directed to treat the proceedings dated 29.12.2014 of the second respondent as a show cause notice and submit his objection to the same within a period of three weeks from the date of receipt of a copy of this order. On receipt of the objection, the second respondent shall afford an opportunity of personal hearing to the petitioner and pass a reasoned order, after examining the objection given by the petitioner, on merits and in accordance with law within a period of three weeks thereafter. Till then, status quo prevailing as on date shall be maintained.

6. With the above observation, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed."

3. Pursuant thereto the impugned proceedings has been passed. The learned counsel for the petitioner/Panchayath submits that the impugned order is wholly illegal, against the Panchayath and has been passed without affording opportunity to the Village Panchayath. However, it is to be noted that the petitioner herein was the 4th respondent in the earlier writ petition and the writ petition was dismissed after hearing them with certain directions.

4.Since the petitioner is a village Panchayath represented by the elected President, this Court is of the view that it is a

fit case where the petitioner should bring to the notice of the District Collector the grievances expressed before this Court. Since the order has been passed by the Block Development officer, the District Collector is empowered to ascertain as to whether the stand taken by the Pachayath is correct or order passed by the 4th respondent was justified.

5. Hence at this juncture, this Court is not inclined to interfere with the impugned order. However, there shall be a direction to the petitioner to submit a representation along with the copy of this order to the 1st respondent expressing their grievance against the impugned order dated 17.07.2015 and if the same is submitted to the 1st respondent, they shall examine the correctness of the order. The above direction shall be complied with within a period of three weeks from the date of receipt of copy of the order along with the representation.

6. The writ petition is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

ssd

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

TO

1. The District Collector, Namakkal District, Namakkal.
2. The Block Development Officer (Rural)
Mallasamudiram Panchayath Union,
Mallasamudiram, Tiruchangodu - Taluk, Namakkal District
3. The Inspector of Police, Mallasamudiram Police Station,
Mallasamudiram, Tiruchangodu Taluk,
Namakkal - District

- + 1 CC TO M/s.D.Suriya Narayanan, Advocate Sr 69017
- + 1 cc to M/s Pitty Parthasarathy, Advocate Sr 69011
- + 1 cc to The Government Pleader, Sr 69183
- + 1 cc to Mr.C.Prakasam, Advocate Sr 69542

W.P.No.35596 of 2015
and
M.P.Nos.1 and 015

KR/7/1/16