

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.27700 of 2016

and WMPs..Nos.23858 to 23860 of 2016

P.K.Palanisamy ... Petitioner

Vs.

1. The Palladam Municipality
rep. by its Commissioner
Palladam, Tirupur District.
2. P.Narayanan
Commissioner,
Palladam Municipality
Palladam, Tirupur District. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus, calling for the records pertaining impugned show cause notice in Na.Ka.En.340/2014/E1 dated 22.04.2014, 23.04.2014 and final order passed in Na.Ka.En2508/2015/E1 dated 22.01.2016 and Na.Ka.En 01/2016/E1 dated 23.01.2016 issued by the 1st respondent and quash the same illegal, arbitrary, unfair, tainted with malice and violative of audi alteram partem and further direct the respondents to restore water supply service connections to the petitioner.

For Petitioner : Mr.V.Raghavachari
For R1 : Mr.B.Anand
For R2 : Ms.L.Parvin Banu
for M/s.Row & Reddy

O R D E R

The petitioner has challenged the final order passed by the respondents dated 22.01.2016 and 23.01.2016 calling upon the petitioner to pay a sum of Rs.1,01,250/- being the penalty for converting the water supply connection from domestic purpose to commercial purpose and further direction to restore the

water connection.

2. Heard Mr.V.Raghavachari, learned counsel appearing for the petitioner, Mr.B.Anand, learned counsel appearing on behalf of the 1st respondent and Ms.L.Parvin Banu for M/s.Row & Reddy appearing on behalf of the 2nd respondent.

3. The petitioner has been elected as Vice-Chairman of the Palladam Municipality. He has got a Kalyana Mandapam by name "Vys Kalyana Mandapam" for which he got water supply connection bearing No.1573. With regard to the said water supply connection only, the respondents issued Show Cause Notice alleging that the petitioner had used the domestic water supply connection for commercial purpose and therefore the final order was passed by the respondents calling upon the petitioner to pay a sum Rs.1,01,250/-. Challenging the same, the petitioner is before this court.

4. Mr.V.Raghavachari, learned counsel appearing for the petitioner would submit that there was no arrears as alleged by the respondent and there is no conversion of domestic water supply connection to commercial purpose. In any event, as soon as the respondent passed an order on 22.01.2016 calling upon the petitioner to pay the penalty to the tune of Rs.1,01,250/-, the same was paid on 23.01.2016 itself. Based on the arrears of dues to the tune of Rs.1,01,250/- to the respondent, the respondent passed a resolution disqualifying the petitioner in contesting the election, which has been challenged by the petitioner in District Court in EOP No.129 of 2015 and hte same is pending. Since the local body elections have been notified, the petitioner seeks issuance of 'No Objection Certificate' as he has already paid the amount of Rs.1,01,250/- on 23.01.2016, on receipt of notice.

5. The issue regarding disqualification has to be decided only by the District Court. However, the respondent, is directed to issue 'No Due Certificate' by observing, without prejudice to the rights of either of the parties. Further, as per Section 50 (hh) of the Tamil Nadu District Municipalities Act, 1920, if the amount is paid within three months from the date of service of notice, there cannot be any adverse consequences.

6. Without going into the merits, whether the petitioner converted the domestice water supply connection to commercial and is liable to pay the amount or not and consequent disqualification, which are within the purview of District Court, this Court only directs the municipality to issue 'No due certificate', without prejudice to the rights of both the

parties.

7. With the above direction, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

rm/rgr

To

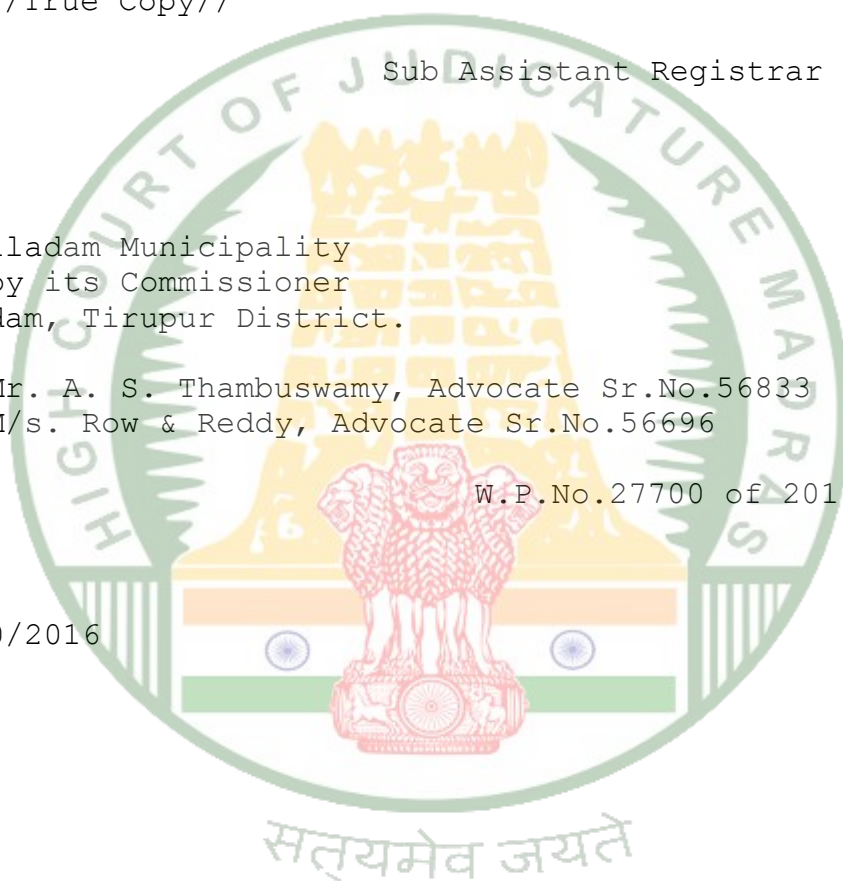
1. The Palladam Municipality
rep. by its Commissioner
Palladam, Tirupur District.

+1 CC to Mr. A. S. Thambuswamy, Advocate Sr.No.56833

+2 CC to M/s. Row & Reddy, Advocate Sr.No.56696

W.P.No.27700 of 2016

CA (CO)
MD : 26/10/2016



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