

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.4017 of 2013

R. Malarkodi

.. Petitioner

vs.

1. The President
Kidangal Panchayat
Kidangal, Mamakudy Post
Tranquebar Taluk,
Nagai Street.

2. Satya
W/o. Kumar
Kidangal Main Road
Kidangal, Mamakudy Post
Tranquebar Taluk,
Nagai Street.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the 1st respondent to recall the permission granted to the second respondent for the purpose of construction on the property of the petitioner in Survey No. 549/2 of Kidangal Village and take necessary steps in pursuance of such cancellation and pass further orders.

For Petitioner : Mr. Prakash Goklaney

For Respondents: Mr. R.A.S. Senthilvel
Govt. Advocate for R1

No appearance for R2

ORDER

The petitioner has filed this writ petition seeking to direct the 1st respondent to recall the permission granted to the 2nd respondent for the purpose of construction on the property of the petitioner in Survey No. 549/2 of Kidangal Village and take necessary steps pursuant to such cancellation.

2. Learned counsel for the petitioner submitted that the subject property was settled vide a registered settlement deed dated 04.03.1960 to the petitioner by her father. After introduction of the Inams Abolition Act, 1963 and after survey, an extent of 34 ares remained in the possession of the petitioner. The patta and other revenue records also revealed the same. Whiles, the 1st respondent accorded permission in favour of the 2nd petitioner to put up construction on the land belonging to the petitioner. Therefore, the petitioner issued a notice on 15.12.2011 through his counsel to the 1st respondent stating the facts and requesting to withdraw the sanction. However, no steps were taken by the 1st respondent. In the meanwhile, the 2nd respondent constructed a superstructure on the said land. Hence, another notice was issued on 09.07.2012 by the petitioner through his counsel to take consequent steps to demolish the unauthorised construction. However, no steps were taken and hence the petitioner is before this Court seeking for the abovesaid prayer.

3. Learned Government Advocate representing the 1st respondent brought to the notice of this Court, the Resolution No.12/2012 passed by the Kidangal Panchayat, cancelling the house tax assessed by the 1st respondent.

4. Heard learned counsel for the petitioner and learned Government Advocate for the 1st respondent and perused the material available on record.

5. As per the Resolution of the Kidangal Panchayat, the house tax assessed has been cancelled. However, the prayer in the writ petition is to recall the permission granted to the 2nd respondent to put up construction on the subject property, for which no orders have been passed by the 1st respondent. This Court cannot consider the said prayer, without going into merits of the case. At this stage, learned counsel for the petitioner confined his prayer to a limited extent and sought this Court to direct the 1st respondent to consider the representation of the petitioner within the time stipulated by this Court.

6. Considering the facts and circumstances of the case and in view of the submission of the learned counsel for the petitioner and the learned Government Advocate, the petitioner is directed to submit a fresh representation, along with a copy of this order to the 1st respondent/ the present Special Officer. On receipt of the same, the Special Officer is directed to consider the representation of the petitioner and pass orders on merits and in accordance with law, after providing an opportunity to the parties concerned, as expeditiously as possibly, preferably within a period of three

months from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of, on the above terms. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

avr

To

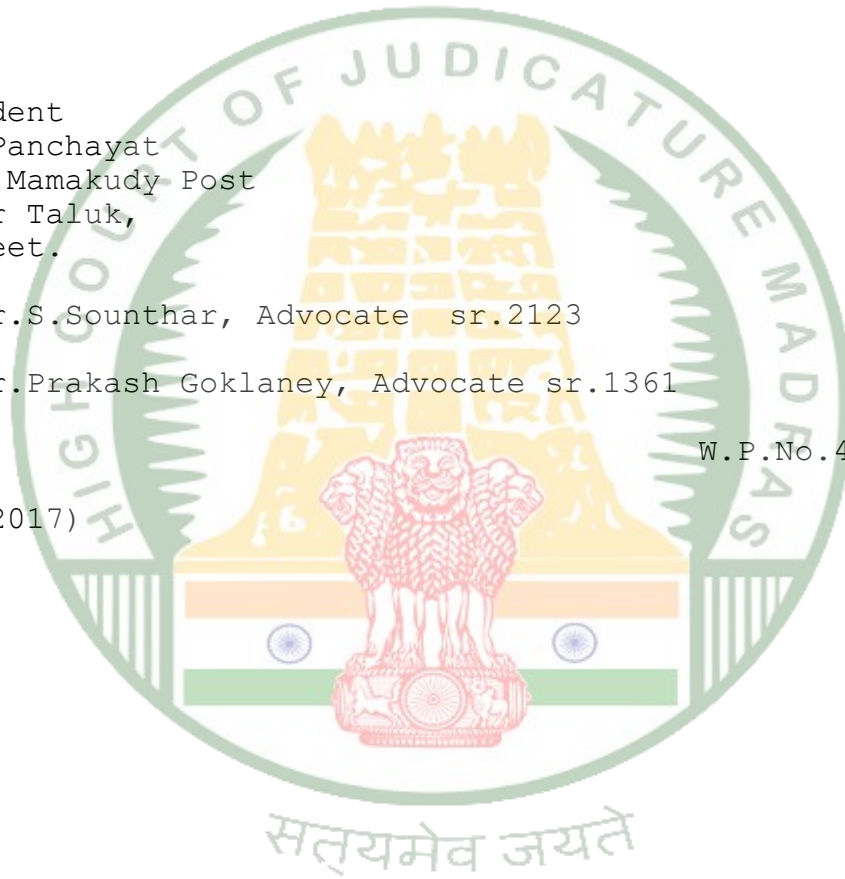
The President
Kidangal Panchayat
Kidangal, Mamakudy Post
Tranquebar Taluk,
Nagai Street.

+1cc to Mr.S.Sounthar, Advocate sr.2123

+2cc to Mr.Prakash Goklaney, Advocate sr.1361

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ss(28/02/2017)

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