



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.8118 of 2020

and

W.M.P. (MD) .No.7536 of 2020

WEB COPY

Rafeek Basha

...Petitioner

Vs.

1.The Regional Director,
Municipal Administration,
Salem.

2.The Commissioner,
Kulithalai Municipality,
Kulithalai, Karur District.

3.Mr.Yacoob Ghan,
S/o. Ameer Ghan,
New Court Street,
Kulithalai, Karur District.

...Respondents

(Respondent No.3 is suo motu impleaded as per the order
of this Court in W.P.(MD).No.8118 of 2020 dated 27.08.2020)

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the second respondent to provide a drinking water tap connection to the petitioner's house situated in Ward No.9, Door No.46A/11, New Court Street, Kulithalai, Karur District based on the representation dated 23.03.2020.

For Petitioner	: Mr.RM.Sivakumar
For R-1 & R-2	: Mr.M.Rajarajan
	Additional Government Pleader
For R-3	: Mr.M.Ramanathan

ORDER

Mr.Yahoob Ghan, S/o. Ameer Ghan, New Court Street, Kulithalai, Karur District, is suo motu impleaded as third respondent in this Writ Petition. Registry is directed to make the necessary changes in the cause title. Mr.Ramanathan, learned counsel, takes notice for the newly impleaded third respondent.

2. Heard the learned counsel on either side.

3. The petitioner wants provision of drinking water tap connection to his petition mentioned house. The petitioner's request could not be complied with by the Kulithalai Municipality. In view of the pendency of civil litigation between the petitioner



and the impleaded third respondent, the impleaded third respondent had filed a civil suit in O.S.No.144 of 2007, before the District Munsif Court, seeking relief of injunction. It was in respect of pathway. The suit was decreed. But then, the writ petitioner succeeded in A.S.(MD).No.33 of 2012. Questioning the same, the third respondent filed S.A.(MD).No.301 of 2015 and it is still pending before this court. It is admitted by the learned counsel on either side that no interim order has been granted in the Second Appeal.

4. The petitioner's house is on the East. The house of the third respondent is on the West. The learned counsel appearing for the third respondent states that the drainage water from the petitioner's house is being let out in the common pathway. The petitioner is said to have an alternative pathway to reach his house. Even though there is a strong opposition from the third respondent, I am of the view that the issue can be resolved. The petitioner's counsel on instructions gives an undertaking that as soon as possible the petitioner would construct a drainage, so that the drainage water is not let out into the pathway in question. The second respondent is directed to provide drinking water tap connection to the petitioner. But while doing so, the second respondent would ensure that the width of the pathway is not reduced. In order to balance the rights of the parties, it is open to the third respondent to give an application for drainage water tap connection to the second respondent and the second respondent will comply with the said request also. In other words, both the petitioner as well as the third respondent will be entitled to being provided with drainage water tap connections. The second respondent can also explore the means of providing the connection through underground.

5. I make it clear that this order will not prejudice the rights of either parties. In fact, it will abide by the outcome of pending S.A.(MD).No.301 of 2015. Therefore, leaving open the respective contentions of the parties in the pending Second Appeal, the Writ Petition stands disposed of on these terms. Of course, the parties herein will have to bear the cost of providing the said amenities by the local Municipality. No costs. Consequently, the connected miscellaneous petition is closed.

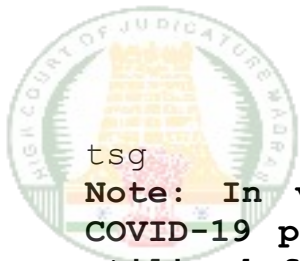
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Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Regional Director,
Municipal Administration,
Salem.
- 2.The Commissioner,
Kulithalai Municipality,
Kulithalai, Karur District.

+1 CC to Mr.RM. SIVAKUMAR, Advocate (SR-15168[F] dated 28/08/2020)

+1 CC to Mr.AN. RAMANATHAN, Advocate (SR-15176[F] dated 28/08/2020)

ORDER MADE IN
W.P. (MD) .No.8118 of 2020
27.08.2020

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