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Writ Petition Nos.33879 and 33883 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23/1/2023

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition Nos.33879 and 33883 of 2022

a n d

W.M.P.Nos.33366 and 33367 of 2022

L. Vanaja	...	Petitioner in W.P.No. 33879 of 2022
Savithiri	...	Petitioner in W.P.No. 33883 of 2022

Vs

1. The District Collector
Kancheepuram District
Collector Office
Kancheepuram.
2. The Assistant Director of Panchayats
Kancheepuram District, Collector Office
Kancheepuram.
3. The Revenue Divisional Officer
Kancheepuram District, Collector Office
Kancheepuram.
4. The Block Development Officer
Walajabad Panchayat Union
Walajabad
Kancheepuram District.



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5. The Deputy Block Development Officer
Walajabad Panchayat Union
Walajabad
Kancheepuram District.

6. The Village Administrative Officer
Uthukadu Village & Post
Walajabad Taluk
Kancheepuram District 631 605. ...

Respondents in both
the writ petitions

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.1550/2021/A6/Vu.E(Vu) dated 28/11/2022 and quash the same.

For Petitioners ... Mr.G.Karthikeyan

For respondents ... Mrs.R.Anitha
Special Government Pleader
for R.R.1 to 3 and 6

Mr.K.Tippu Sulthan
Government Advocate
for R.R.4 and 5.



COMMON ORDER

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These writ petitions have been filed to quash the order dated 28/11/2022, passed by the first respondent in Na.Ka.No.1550/2021/A6/Vu.E(Vu).

2. The petitioners are the President and Vice President of Uthukadu Panchayat, Walajabad Union Panchayat, Kancheepuram District. They have been duly elected by the people in the Elections which took place on 6/10/2021. They have been discharging their duties without any complaints from the public.

3. When the matter stood thus, the Block Development Officer of Walajabad Panchayat Union, fourth respondent, sent a communication to the petitioners, dated 19/7/2022, directing the petitioners to pass a Resolution, transferring the lands measuring 2.34 acres, situated in S.No.529/6, in Uthukadu-A village, for the purpose of extension of a private company, namely CGD Space Core Pvt Ltd. Since they have not passed any Resolution, first respondent, passed the impugned order, dated 28/11/2022, suspending the power to deal with the finance and to issue permission for



construction and issue license. Being aggrieved, the petitioners have come forward with the instant writ petitions praying for the relief, as stated supra.

4. Counter, has been filed by the Assistant Director (Panchayats), Kanchipuram, wherein, it is stated that husbands of the petitioners are acting as proxy in Uthukadu Village Panchayat, despite the fact that they are in no way connected with the administration of the Panchayat. Husbands of the petitioners have a dozen criminal cases and the same are pending. To restrain the wrongful attitude of the petitioners, impugned orders have been passed.

5. Heard Mr.G.Karthikeyan, learned counsel appearing for the petitioners, Mrs.R.Anitha, learned Special Government Pleader for the respondents 1 to 3 and 6 and Mr.K.Tippu Sulthan, learned Government Advocate for the respondents 4 and 5.

6. Learned counsel appearing for the petitioners submitted that on receipt of the Communication, dated 19/7/2022, petitioners have sent replies to the fourth respondent, dated 13/9/2022, to give details about the CGD Space Core Pvt Ltd. Instead of giving the information, fourth respondent



gave a complaint before Walajabad Police Station and the same was registered in Crime No.399 of 2022, for the offence punishable under Sections 294 (b), 353 and 506 (i) of the Indian Penal Code.

7. Mrs.R.Anitha, learned Special Government Pleader submitted that on 18/8/2022, fourth respondent by his Proceeding, requested the petitioners to issue a Resolution in respect of the Anadeenam land, measuring an extent of 2.34 acres, comprised in S.No.529/6 Uthukadi B Village, Walajabad Taluk, Kancheepuram District, in favour of Tamil Nadu Industrial Development of CGD Space Core Pvt Ltd. But the petitioners have failed to do the same and furnished Resolution No.52 extract stating that Village Panchayat has rejected the Resolution for the reason best known to the petitioners.

8. Learned Special Government Pleader further submitted that irregularity had been committed by the petitioners while sanctioning the planning permission and did not maintain the proper records. Even though husbands of the petitioners were not elected as President and Vice President, they are administering Uthukadu Village Panchayat. Considering the



various allegations raised against the petitioners, impugned order has been passed.

9. I have perused the entire materials available on record.

10. Impugned order, dated 28/1/2022, has been passed, without following the procedure, enumerated under Section 202 (2) of the Tamil Nadu Panchayats Act, 1994. A perusal of the impugned order would indicate that as if there are serious allegations raised against the petitioners, viz., they have not followed any Rules and Regulations of the said Act. Impugned order, does not specify the nature of allegations under which such action is being taken, whereas, the impugned order is proceeded as if the petitioners have indulged in violating various Sections of the Act. What was the nature of violations and allegations are not found place in the impugned order.

11. It is relevant to note that Collector is empowered to take action, as per law, particularly, when there are serious allegations against the petitioners, those allegations should be put to the petitioners before taking any action. In fact, sub-clause (2) of Section 202 of the Tamil Nadu



Panchayats Act, 1994, mandates that before taking action against the petitioners, reasonable opportunity of hearing to the petitioners should have been given. But no materials are available on record to substantiate that after affording an opportunity, impugned order was passed. Therefore, this Court is of the view that no materials are available on record to show that before passing the impugned order, sufficient opportunity was given to the petitioners, and also considering the fact that vague allegations were thrown on the petitioners, impugned order cannot be sustained in the eye of law. Any action for removing the powers of the cheque signing should be based on the specific allegations, which has not been done in this case.

12. Learned Special Government Pleader submitted that now show cause notices, under Section 205 of the Act, were issued to take action against the petitioners and explanations were also submitted by the petitioners.

13. In such a view of the matter, this Court, taking note of the vagueness in the impugned order, deems it fit to set aside the same. Accordingly, this writ petition is allowed. It is well open to the Collector, Kancheepuram District, to take action as per law, if there are any proven



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allegations against the petitioners. As Proceedings already appears to have been commenced, under Section 205 of the Act, the same shall be completed, within a period of three months, from the date of receipt of a copy of this order.

No costs. Consequently, the connected Miscellaneous Petitions are closed.

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mvs.

Index : Yes / No

Internet: Yes

Speaking/non speaking order

Neutral Citation: Yes/No



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