



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
Friday, the Second day of June Two Thousand and Twenty Th



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PRESENT
The Hon`ble Mr.Justice R.SURESH KUMAR
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CMP(MD) No.10428 of 2021
in
WA(MD) . No.320 of 2013

1 A.THANGA PANDIAN
S/O.A.ANANDHAKUTTI NADAR,
EAST CAR STREET,
SAMYTHOPPU AND POST KANYAKUMARI DISTRICT

..Petitioner/1st Respondent

VS

1.THE SAMYTHOPPU VILLAGE
PANCHAYAT REP BY ITS PRESIDENT SAMYTHOPPUR
AGASTHEESWARAM TALUK,
KANYAKUMARI DISTRICT.

..1st Respondent/Appellant

2 THE BLOCK DEVELOPMENT OFFICER
(VILLAGE PANCHAYAT),
AGASTHEESWARAM TALUK,
KANYAKUMARI DISTRICT.

.. 2nd Respondent/2nd Respondent

Prayer in CMP(MD)No.10428 of 2021:-

This Civil Miscellaneous Petition filed under order 26 Rule 9 of C.P.C.,to appoint an advocate commissioner to find out whether the petitioner/1st respondent is letting out toilet excreta or effluent from septic tank from his building wherein Door Nos. 1/20, 1/23, 1/24, 1/11, 1/10, 1/25-4, 1/25-1, 1/25-2 and 1/25-3 Mela Ratha Veethi, Samythoppu, Agastheeswaram taluk, Kanyakumari district, to the drainage, pending disposal of the above Writ Appeal.

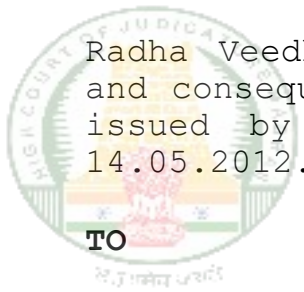
Prayer in WA(MD)No.320 of 2013

This Writ Appeal filed under Clause 15 of the Letter patent, to allow this Writ Appeal by setting aside the orders passed by the learned Judge in WP(MD)No.7932 of 2012 dated 01/02/2013.

Prayer in WP(MD)No.7932 of 2012

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 23.04.2012 issued by the first respondent directing the

<https://www.mca.gov.in/judis>



Radha Veedhi, Samythoppu, Kanyakumari District and quash the same and consequently direct the first respondent to implement the order issued by the second respondent in Na.Ka.No.8/1475/2012, dated 14.05.2012.



TO

MR.K.VIJAY SATHYA,
ENROLMENT NO.6404/2022,
No.4,Lakshmi Sagar Appartment, Sathsangam
Road,S.S Colony, Madurai.
Ph No.8110916372

Whereas this court hath in its order dated 02/06/2023, made herein appointed **K.VIJAY SATHYA**, Advocate as Commissioner, directed as follows:

i)the Advocate Commissioner shall visit the place in Mela Radha Veedhi, Samythoppu, Agastheeswaram Taluk, Kanniyakumari District, to verify how many houses are located in the premises, including the house of the petitioner, and inside the premises whether they have a septic tank otherwise if they have any common septic tank, wherein the sewage line of each of the house, including the house of the petitioner, has got connected and also to verify whether the septic tank even though if it is connected with the house for letting in the sewage whether it is being used properly and in this context whether the petitioner or any other inmates in the premises are letting the sewage as well as the other drain water towards the rain water canal running across or adjacent to the land in question as claimed by the Tahsildar are all to be verified with photographs and measurement and a detailed report shall be filed within a period of two weeks.

ii)that Advance notice shall be given by the Advocate Commissioner to both sides and in the presence of the parties or their representatives/Counsel such inspection shall be conducted and a report shall be filed.

iii)the initial remuneration of the Advocate Commissioner is fixed as Rs.25,000/- (Rupees Twenty Five thousand only) and the Advocate Commissioner is entitled to seek for additional remuneration after filing the report.

iv)the initial remuneration shall be paid by the petitioner herein directly to the Advocate Commissioner forthwith.

v)that on receipt of the same, Advocate Commissioner can fix the date for inspection by giving notices and file the report after two weeks.and

vi)Post the matter on **19.06.2023.**



Witness the Hon'ble Mr. Justice Sanjay Vijayakumar Gangadhar, The Chief Justice of the High Court of Judicature at Madras on Friday, the Second day of June Two Thousand and Twenty three (02.06.2023)



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ASSISTANT REGISTRAR (CS-III)

ORDER DATED : 02/06/2023

HEARING DATE : 19/06/2023

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WARRANT OF
ADVOCATE COMMISSIONER
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WA(MD) . No.320 of 2013

Giving direction and etc.
as stated within.

KB (09.06.2023) 3P 3C



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Friday, the Second day of June Two Thousand and Twenty Three

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and
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CMP(MD) No.10428 of 2021
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Prayer in CMP(MD)No.10428 of 2021:-

This Civil Miscellaneous Petition filed under order 26 Rule 9 of C.P.C., to appoint an advocate commissioner to find out whether the petitioner/1st respondent is letting out toilet excreta or effluent from septic tank from his building wherein Door Nos. 1/20, 1/23, 1/24, 1/11, 1/10, 1/25-4, 1/25-1, 1/25-2 and 1/25-3 Mela Ratha Veethi, Samythoppu, Agastheeswaram taluk, Kanyakumari district, to the drainage, pending disposal of the above Writ Appeal.

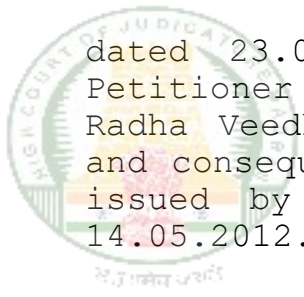
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dated 23.04.2012 issued by the first respondent directing the Petitioner not to let out the drainage water into the drain at Mela Radha Veedhi, Samythoppu, Kanyakumari District and quash the same and consequently direct the first respondent to implement the order issued by the second respondent in Na.Ka.No.8/1475/2012, dated 14.05.2012.

Order:

This Writ Appeal is coming for order on this day and upon perusing the petition and affidavit filed in support thereof and upon hearing the arguments of Mr.M.Pandiarajan, Advocate for the Appellant and Mr.Aayiram K.Selvakumar Advocate for First Respondent, A.K.Mannikam, Advocate for second Respondent and this court made the following orders.

This Civil Miscellaneous Petition has been filed to appoint an Advocate Commissioner to find out whether the petitioner / 1st respondent is letting out toilet excreta or effluent from septic tank from his building wherein Door Nos.1/20, 1/23, 1/24, 1/11, 1/10, 1/25-4, 1/25-1, 1/25-2 and 1/25-3, Mela Ratha Veethi, Samythoppu, Agastheeswaram Taluk, Kanyakumari District, to the drainage.

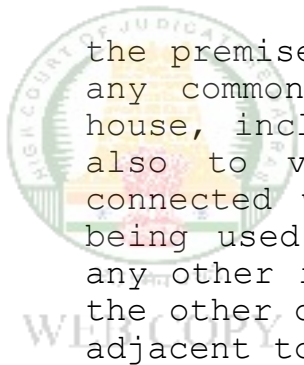
2. It is the case of the appellant that sewage water and the rough use water are being let in a water canal or rain water drain, which is hazardous to the environment as it is connected to a salt pan ultimately, therefore, on that ground they are opposing the move of the petitioner herein, who is the 1st respondent in the Writ Appeal.

3. However, it is the stand of the petitioner / 1st respondent that, the petitioner has never let in the sewage water along with other rough use water towards the water canal and insofar as the sewage is concerned, there is a separate septic tank already been established, wherein it is being let in.

4. However, by virtue of the earlier order, the Tahsildar, Agastheeswaram Taluk, has filed report dated 27.11.2021, where he has stated that the sewage and rain water of these houses, including the house of the petitioner and shops are being connected with the rain water line in the Survey Field R.S.No.272/1, which is classified as Government Poramboke Salai, through P.V.C. Pipe.

5. However, it is rebutted by the learned counsel for the petitioner that, the Tahsildar has filed his report even without entering upon the premises and therefore, his report cannot be taken as a full proof evidence to come to a conclusion by this Court.

6. In order to resolve this issue, we feel that, an Advocate Commissioner can be appointed, who can visit the premises or the buildings in question and verify how many houses are located in the premises, including the house of the petitioner, and inside



the premises whether they have a septic tank otherwise if there is any common septic tank, wherein the sewage line of each house, including the house of the petitioner, has got connected and also to verify whether the septic tank even though if it is connected with the house for letting in the sewage whether it is being used properly and in this context whether the petitioner or any other inmates in the premises are letting the sewage as well as the other drain water towards the rain water canal running across or adjacent to the land in question as claimed by the Tahsildar are all to be verified with photographs and measurements and a detailed report shall be filed by the Advocate Commissioner within a period of two weeks.

7. Advance notice shall be given by the Advocate Commissioner to both sides and in the presence of the parties or their representatives / counsel such inspection shall be conducted and a report shall be filed. For the aforesaid purpose Mr.K.Vijay Sathya, Enrolment No.6404/2022, 4, Lakshmi Sagar Appartment, Sathsagam Road, S.S.Colony, Madurai, (phone No.8110916372) is appointed as Advocate Commissioner. His initial remuneration is fixed at Rs.25,000/- (Rupees Twentyfive Thousand only) and he is entitled to seek for additional remuneration after filing the report. The initial remuneration shall be paid by the petitioner herein directly to the learned Advocate Commissioner forthwith and on receipt of the same, he can fix the date for inspection by giving notices and file the report after two weeks.

8. Post the matter on 19.06.2023.

Sd/-

Assistant Registrar(CS-III)

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/06/2023

Sub Assistant Registrar(CS)

TO,

- 1.THE SAMYTHOPPU VILLAGE
PANCHAYAT REP BY ITS PRESIDENT SAMYTHOPPUR
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ORDER DATED : 02/06/2023
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order

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