



W.P(MD)No.27106 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27106 of 2023

and

W.M.P.(MD)Nos.23268, 23270 & 23271 of 2023

S.Ranjini

... Petitioner

Vs.

1.The Assistant Director,
Panchayats,
Madurai District,
Madurai-625 020.

2.The Commissioner cum Block Development Officer,
Usilampatty Panchayat Union,
Usilampatty,
Madurai District.

3.The Commissioner,
Usilampatty Municipality,
Usilampatty,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice in Na.Ka.No.351/2021/A2 dated 15.09.2023 issued by the 1st Respondent and in continuation with the same impugned notice in Na.Ka.No.1998/2023/A2 dated 16.10.2023 issued by the 2nd Respondent and quash the same as illegal and consequently directing the Respondents 1 and 2 herein not to interfere in the matter pertaining to transfer



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of Panchayat Union owned commercial shops and land situated in S.F.No.240-1 and 240-4A, T.S.No.23 and 24 in the light of the judgment in W.A.(MD).No. 832 of 2009 and W.P.(MD).Nos.10329, 10694 & 8189 of 2022 rendered by the Division Bench of this Court.

For Petitioner : Mr.K.S.Viswanathan
Senior Counsel
for Mr.A.Mithunchakravarthi

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.V.Nirmal Kumar
Government Advocate

ORDER

Heard the learned senior counsel appearing for the petitioner and the learned Additional Advocate General assisted by learned Government Advocate appearing for the official respondents.

2. When Usilampatty was a village panchayat, Usilampatty Panchayat Union had constructed certain shops within panchayat limits. Subsequently, Usilampatty Village Panchayat became Usilampatty Municipality and it is now a Municipality. The question that arose was whether the aforesaid property would vest in the Municipality or it would continue to vest in Usilampatty Panchayat Union. The Government had issued an order in this regard and that was the subject matter of litigation. Eventually, vide order dated 09.06.2022 in



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W.P.(MD)No.10329, 10694 & 8189 of 2022, the Hon'ble Division Bench

disposed of the writ petitions in the following terms:-

“7. Mr.Veera Kathiravan, learned Additional Advocate General, submitted that this issue has to be essentially decided by the Secretary to the Government, Municipal Administration and Water Supply Department, under which Department, Municipalities fall, and Secretary to the Government, Rural Development and Panchayat Raj, under whom Panchayat Unions and Panchayats fall. It is also brought to our knowledge that the petitioner has also given a representation to the Government for transferring the said structure from the control of the Panchayat Union to the control of the Usilampatti Municipality and similarly, the members of the Usilampatti Panchayat Union have also passed a resolution for retaining the said structure with them. Thus, this is purely a politico-executive issue which cannot be determined by this Court.

8. Thus, we direct the Government to decide this disputed question of fact and accordingly, pass appropriate orders on merits and in accordance with law. Accordingly these writ petitions are closed. No costs. Consequently, connected miscellaneous petitions are closed.”

3. The learned Additional Advocate General informs the Court that the Government is seized of the matter. Hence, the impugned communication is put on hold. The impugned communication issued by the first respondent will abide by the decision to be taken by the Government.

G.R.SWAMINATHAN, J.



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4. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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