



W.P. No.10681 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P. No.10681 of 2021

and W.M.P.No.11308 of 2021 in W.P.No.10681 of 2021

R.S.P. Nagar Residents and Land Owners
Association rep. By its President
K.Subramaniam
Petitioner

..

Vs.

- 1.The District Collector,
Tiruppur District, Tiruppur.
- 2.The Revenue Divisional Officer,
Dharapuram, Tiruppur District.
- 3.The Divisional Engineer,
Tamil Nadu Road Sector Project
(II Wing), Tiruppur District.
- 4.The Divisional Engineer,
State Highways Building and Maintenance,
Dharapuram, Tiruppur District.
- 5.The Commissioner,
Dharapuram Municipality,
Dharapuram, Tiruppur District.
- 6.The Deputy Superintendent of Police,
Dharapuram, Tiruppur District.
- 7.The Inspector of Police (Law & Order),
Dharapuram Police Station,



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Dharapuram.
8.Palanichamy,
Proprietor,
Amman Arul Cements and Steels,
RSP Nagar, Dharapuram,
Tiruppur District.

9.Dharapuram RSP Nagar West People
General Welfare Association
(R.No.142/2020) rep. By
V.Periyasamy,
Office at No.14/1, Kulathupunjai Street,
RSP Nagar, Bypass Road,
Dharapuram, Tiruppur District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents 1 to 5 to consider the petitioner's Association representation dated 12.10.2020 to direct the 8th respondent to remove the illegal encroachment in the municipality road situated in the RSP Nagar, Dharapuram, Tiruppur District.

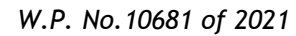
For Petitioner : Mr.K.Rajendra Prasad

For Respondents : Mr.P.Balathandayutham,
Spl. Govt. Pleader
for R1 to R4, R6 & R7
Mr.P.Srinivas for R5
Mr.D.Krishna Pradeep
for R8 & R9

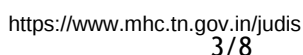
ORDER

(Order of the Court was made by **M.Sundar, J.**)

This order will govern captioned 'Writ Petition'
(hereinafter 'WP' for the sake of brevity) and captioned 'Writ



2. Captioned WP has been filed with a simple mandamus
ua a 'representation dated 12.10.2020' (hereinafter 'said
tation' for the sake of convenience and clarity) and a
reproduction of said representation as placed before us is
s:





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3. Said representation has been sent by writ petitioner to the Municipal Engineer of Dharapuram Municipality but the request at the bar is to construe the same as representation made to R5 (Commissioner).

4. Today, Mr.K.Rajendra Prasad, learned counsel for writ petitioner, Mr.P.Balathandayutham, learned Special Government Pleader for respondents 1 to 4, 6, 7, Mr.P.Srinivas, learned standing counsel for R5 and Mr.D.Krishna Pradeep, learned counsel on record for R8 and R9 (private respondents) are before us.

5. In the earlier proceedings in the listings on 29.04.2021 and 17.06.2021, another Hon'ble Division Bench has made interim orders pertaining to alleged attempts to connect RSP Nagar lay out with highway between Tiruppur and Madurai but learned counsel for petitioner adverting to paragraph 12 of the writ affidavit very fairly submitted that the issue of connecting with the highway is subject matter of earlier writ petition viz., W.P.No.14396 of 2020 filed by the writ petitioner herein and that the same is now pending before a Hon'ble Single Judge of this Court. As regards



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captioned WP and said representation, learned counsel for writ petitioner very fairly submitted that the road referred to in said representation is a road that vests in R5 and the complaint pertains only to heaping sand/gravel in the road that vests in municipality thereby obstructing the road and usage of the road.

6. To be noted, it is the case of the writ petitioner that the alleged obstruction is by R8, who is represented by a counsel.

7. Learned counsel for R5 submits that pending captioned WP, 'The Tamil Nadu Urban Local Bodies Act, 1998' (hereinafter 'said Act' for the sake of convenience and clarity) kicked in.

8. It is nobody's case that immovable structure whether permanent or temporary has been put up qua municipal road as regards said representation. This means that the exercise if any is covered by Section 128(1)(a) of said Act. As the person who is alleged to have dumped gravel/sand in road which vests in the municipality is before us, we deem it appropriate to say that rights and contentions of R8 will remain preserved qua any action by R5 under Section 128(1)(a) of said Act.



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9. We make it clear that closure of captioned WP and WMP vide this order will neither impede nor serve as an impetus qua earlier writ petition being W.P.No.14396 of 2020 which is said to be pending before Hon'ble Single Judge of this Court. In other words, W.P.No.14396 of 2020 will proceed on its own merits and in accordance with law untrammelled by this order. For the sake of completion of facts, we deem it appropriate to say that the writ petitioner has disclosed that the writ petitioner Association has filed a suit in O.S.No.30 of 2022 on the file of District Munsif Court, Dharapuram as regards certain activities qua certain companies in the lay out and the same has been decreed in and by a judgment dated 05.04.2004. If there is any appeal, the appeal will also proceed on its own merits and in accordance with law. This order will neither impede nor serve as an impetus qua the appeal.

10. Recording the stated position of R5 that Section 128(1)(a) of said Act is activated and that R5 will swing into action, captioned WP is disposed of. Consequently, captioned WMP is disposed of as closed making it clear that interim orders which were thus far operating will also stand concluded albeit further



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making it clear that it is open to the writ petitioner to seek similar/same interim orders in aforementioned earlier writ petition being W.P.No.14396 of 2020.

11. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned WMP is closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
21.06.2024

Index:Yes/No
Neutral Citation: Yes/No
mmi

To

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Dharapuram Police Station, Dharapuram.

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M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
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