



W.P.No.16844 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.16844 of 2024

C.Senthil Babu

.. Petitioner

Vs

1.The District Collector,
Tiruppur.

2.The Sub Collector,
Tiruppur.

3.The Assistant Director,
Directorate of Town and Country Planning,
Tiruppur.

4.The Block Development Officer,
Palladam, Tiruppur.

5.The Manickapuram Village Panchayat Union,
Rep. By its President,
Palladam Block,
Tiruppur District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorarified mandamus to call for the records of the impugned resolution in Resolution No.124, dated 09.11.2023 by the fifth respondent panchayat union and quash the same



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and further restrain the respondents from interfering in petitioner's peaceful possession of his land in S.No.411/1A1A2 situated in Min Nagar, Manickapuram, Palladam, Tiruppur District.

For Petitioners : Mr.I.Abrar Md.Abdullah

For R1 to R3 : Mr.V.Manoharan, AGP

For R4 & R5 : Mr.K.Karthikeyan, GA

ORDER

The writ petition has been filed challenging the impugned resolution No.124, dated 09.11.2023 passed by the fifth respondent Panchayat Union.

2. The land comprised in Survey No.411/1A1A2 situated at Min Nagar, Manickapuram, Palladam, Tiruppur district, measuring to extent of 12000 sq.ft., was originally owned by the fifth respondent Panchayat Union. Vide Resolution No.105, dated 29.07.2005, the fifth respondent Panchayat Union passed a resolution resolving to sell the subject land. The fifth respondent issued No Objection Certificate and sold out the subject land in favour of the petitioner's father by a registered sale deed dated 10.02.2006 bearing Document No.1350/2006. The petitioner's



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father was also issued with a Patta bearing No.1543. Thereafter, in the year 2015, his father settled the subject property in favour of the petitioner, who has also later-on mutated revenue records in his favour, and since then, he has been in peaceful possession and enjoyment of the subject property. Upon application, the aforesaid land was subdivided and assigned with Survey No.411/1A1A2 and patta was also granted in his favour in Patta No.3246 and lateron, layout approval for the subject land was also granted by the third respondent.

3. While being so, the fifth respondent Panchayat Union passed the impugned resolution resolving to cancel the earlier resolution No.105, dated 29.07.2005 passed by it. Therefore, the petitioner challenged the said resolution on the ground that the fifth respondent has no power to cancel the earlier resolution passed by it without any notice to the petitioner.

4. Learned counsel for the petitioner relied on a provision of Section 202 of the Tamil Nadu Panchayat Act to contend that only the Inspector of Panchayat, namely, the District Collector has power to cancel any resolution. For better appreciation, Section 202 of the Tamil Nadu



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Panchayat Act is extracted below:-

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202. Power to suspend or cancel resolution, etc. under the Act.

(1) The Inspector may, by order in writing, -

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or
(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance, or under colour, of this Act, if in his opinion, -

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised, or

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Inspector to be otherwise undesirable, or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that nothing in this sub-section shall enable the Inspector to set aside any election which has been held.



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(2) The Inspector shall, before taking action on any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) The power conferred on the Inspector under clause (c) of sub-section (1) may be exercised by the Collector in accordance with the provisions of that clause.

5. A bare reading of the aforesaid provision would say that the Inspector of Panchayat is empowered either to suspend or cancel any resolution passed in terms of Clause (i) of sub-section (1) of [Section 202](#), however, such power must be exercised in conformity with sub-section (2) of [Section 202](#), which says that the Inspector of Panchayat, before either suspending or cancelling any resolution, should give an opportunity to the authority or person concerned and call for explanation. However, in the case on hand, the fifth respondent Panchayat Union passed the impugned resolution recalling its earlier resolution, for which, the petitioner does not require any notice. Therefore, the said provision relied on by the learned counsel for the petitioner is not applicable to the case on hand. However, if the fifth respondent takes any decision against the



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petitioner based on the impugned resolution, then the petitioner has valid grievance.

6. In fine, for the reasons stated above, the writ petition is dismissed. However, it is made clear that the fifth respondent Panchayat Union shall serve notice and afford an opportunity of personal hearing to the petitioner before taking any action in respect of the land in question. No Costs. Consequently, connected miscellaneous petitions are closed.

05.09.2024

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Index:yes/no

Neutral Citation: yes/no



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G.K.ILANTHIRAIYAN, J.



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