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W.P.No.35572 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.35572 of 2024
and
W.M.P.Nos.38449 & 38452 of 2024
in
W.P.No.35572 of 2024

Raman
S/o.Mankan

... Petitioner

Vs.

1. The District Collector
Salem District Collectorate
Salem District - 01.
2. The Tahsildhar
Mettur Tashildhar Office
Mettur Taluk
Salem District.
3. The Revenue Inspector
Office of the Revenue Inspector
Pottaneri Revenue Village
Mettur Taluk
Salem District.

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4. The Block Development Officer
Mecheri Panchayat Union
Koonandiyur Village
Mettur Taluk,
Salem District.

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the impugned letter in Letter No.24/2024 dated 18.10.2024 on the file of the 4th respondent and quash the same.

For Petitioner	:	Mr.K.Vasanthanayagan
For Respondents	:	Mr.T.K.Saravanan Government Advocate, for R1 to R3 Mr.M.Murali Government Advocate, for R4

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed assailing a 'letter dated 18.10.2024 bearing Letter No.24/2024 made by R4 [Block Development Officer]' {hereinafter 'impugned letter' for the sake of brevity}.

2. Impugned letter pertains to 'land comprised in S.Nos.93, 94 and 95 in Koonandiyur Village, Mecheri Panchayat Union, Salem District'

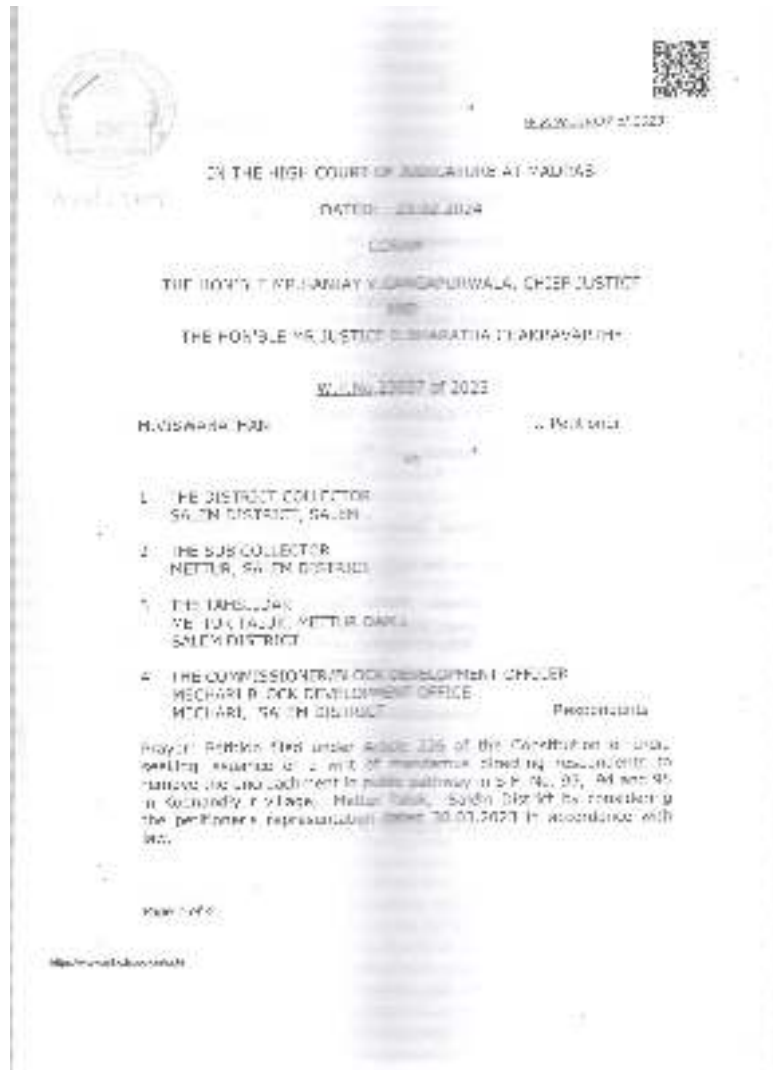


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{hereinafter 'said land' for the sake of brevity}.

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3. One Mr.M.Viswanathan, filed a writ petition in W.P.No.23037 of 2023 in this Court and another Hon'ble Division Bench disposed of the same by an order dated 23.02.2024. A scanned reproduction of the order dated 23.02.2024 in W.P.No.23037 of 2023 is as follows:





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High Court of Judicature at Madras
Salem District
S.F. No. 23037 of 2024

For the Petitioner : Mr.D.Lakshminipathy
For the Respondents : Mr.C.Kathiravan
Spl. Government Pleader

ORDER
(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.D.Lakshminipathy, learned counsel for the petitioner and, Mr.C.Kathiravan, learned Special Government Pleader for the respondents.

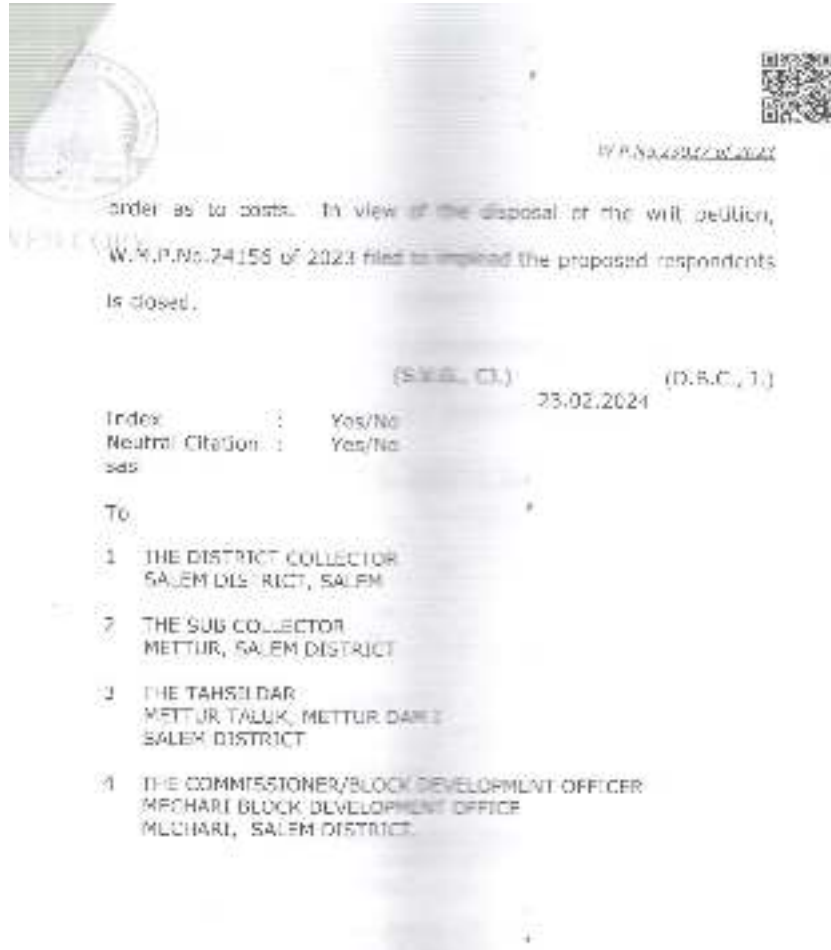
2. Learned Special Government Pleader submits that the encroachment exists on the public pathway in S.F.Nos.93, 94 and 95 in Koonandiur village, Mettur Taluk, Salem District. The authorities would take necessary steps for removal of the encroachment. The authorities shall initiate the process for removal of encroachment in accordance with law within two months from today and shall take the proceedings to the logical end.

The writ petition is disposed of accordingly. There shall be no costs.

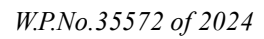
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4. A scanned reproduction of impugned letter is as follows:





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5. Mr.K.Vasanthanayagan, learned counsel on record for the writ

petitioner submits that writ petitioner was not a party to earlier writ petition namely, W.P.No.23037 of 2023 and writ petitioner has not been given any opportunity. Learned counsel also points out that writ petitioner has sent a detailed representation dated 23.10.2024. A scanned reproduction of the representation dated 23.10.2024 is as follows:





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2b

அய்யா, வணக்கம்!

நான் மேற்படி முகவரியில் எனது குடும்பத்துடன் சுமார் 55 ஆண்டுகளாக வசித்துவருகிறேன். மேற்படி பார்வையில் உள்ள விவரங்களின்படிபாஸ சொத்தானது எனது ஆறுபவத்தில் சுமார் 45 வருடங்கள் இருந்து வந்திருக்கிறது. இந்நிலையில் நான்கள் கடத்த 15.10.2024 அன்று மேற்படி விவரங்களின்படிபாஸ சொத்தில் உள்ள எனது வீட்டிற்கு வந்த நான் ஆக்கிரமிப்பு செய்துள்ளதாகவும் அதனால் நீங்கள் வீட்டை காவி செய்து கொள்ள வேண்டும் என்று ஓர் ஸாப்மொழி உத்தரவிட்டார்கள். நான் அப்போது தங்களுடம் சார் நான் இந்த இடத்தில் 45 வருடமாக விரிசுபட்ட, வீட்டுவா, EB பில் எல்லாம் தொடர்ச்சியாகவும், சரியாகவும் செலுத்தி வருகிறேன். மேலும் நான்கள் உரிய சட்டமுறைகளை கடைபிடித்து அறிவிப்பும் மத்தும் கால அலவசமும் மற்றும் எனக்கு ஓர் வாய்ப்பும் வழங்கவேண்டும் அப்போதுதான் நான் வனது தர்பு நியாயத்தை எடுத்துரைக்க முடியும்.

ஆகவே அய்யா அவர்கள் எனது கோரிக்கை மனுவை ஏற்று மேற்படி உரிய நடைமுறைகளை கடைபிடிக்கப்படும் மற்றும் அதுவரையில் எனக்கு பாத்தியப்பட்ட வீட்டை எந்தவிதமான தொத்தரவும் செய்யக்கூடாது என்ற ஓர் உத்தரவை வழங்குமாறு தங்களை அன்போடு வேண்டுகிறேன்.

இடம் : கண்ணாண்டியூர்
நாள் : 23/10/24

இப்படிக்கு,
M. Murugesu

6. Issue notice to respondents.

7. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R3 and Mr.M.Murali, learned Government Advocate accepts notice for R4.

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8. Learned counsel for R4 submits that the impugned letter has been issued by R4 in strict compliance with earlier judicial order being order dated 23.02.2024 made in W.P.No.23037 of 2023.

9. We carefully considered the submissions made on both sides.

10. Considering the limited scope of the captioned WP, main WP was taken up in the Admission Board itself with the consent of both sides.

11. The earlier judicial order directs respondents to take necessary steps 'in accordance with law'. Impugned letter refers to Section 236 of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity} which deals with public roads, markets, wells, tanks etc., to be open to all. As regards said Act, 'Executive Authority' has been defined in sub-section 11 of Section 2 of said Act and Executive Authority is a person notified as such by the Government under Section 83 of said Act. In the case on hand, we are informed that R4 is the Executive Authority. This submission is recorded.

12. This means that the impugned letter is essentially a letter under Section 236 read with Section 131 of said Act more particularly Section 131(2) of said Act. Therefore, Section 131 of said Act provides for



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prohibition against obstructions in or over public roads etc., In the impugned letter, the aforementioned survey numbers have been referred to as 'Paathai' (பாதை). Therefore, it is only appropriate that the writ petitioner is given an opportunity to respond. In any event, writ petitioner has already sent a representation dated 23.10.2024 after the impugned letter. In this view of the matter, we deem it appropriate to make the following order:

(a) Impugned letter being letter dated 18.10.2024 bearing Letter No.24/2024 made by R4 [Block Development Officer] is sustained. In other words, certiorari prayer is not acceded to but with a rider that the impugned letter shall be treated as a 'Show Cause Notice' {'SCN'} and the representation sent by writ petitioner being representation dated 23.10.2024 shall be treated as writ petitioner's response;

(b) The Executive Authority (R4) shall consider the representation dated 23.10.2024. Thereafter, if the Executive Authority is not satisfied with the representation, the Executive Authority himself or through the Village Administrative Officer



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shall report the matter to Village Panchayat or Panchayat Union Council and proceedings under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} shall be commenced. However, if the Executive Authority is satisfied with the representation, that will be the end of the matter;

(c) We make it clear that if proceedings under said 1905 Act are commenced, all rights and contentions of the writ petitioner including the contentions raised in the captioned WP are left open for being canvassed in those proceedings.

Captioned WP disposed of in the aforesaid manner. Consequently, two Writ Miscellaneous Petitions are disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

02.12.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

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To

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Salem District Collectorate
Salem District-01.
2. The Tashildhar
Mettur Tashildhar Office
Mettur Taluk
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M.SUNDAR, J.,

and

K.RAJASEKAR, J.,

mk

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