



WP.No.35147 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

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

W.P.No.35147 of 2024
and
W.M.P.Nos. 38062 & 38064 of 2024 in W.P.No.35147 of 2024

Kandhasamy

... Petitioner

VS

- 1.The District Collector,
Salem District Collectorate,
Salem District – 01.
- 2.The Tasildhar,
Mettur Tasildhar Office,
Mettur Taluk,
Salem District.
- 3.The Revenue Inspector,
Office of the Revenue Inspector,
Pottaneri Revenue Village
Mettur Taluk, Salem District.
- 4.The Block Development Officer,
Mecheri Panchayat Union,
Koonandiyur Village, Mettur Taluk,
Salem District.

... Respondents



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Writ Petition filed under Article 226 of The Constitution of India

praying to issue a Writ of Certiorari calling 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.D.Ravichander
Special Government Pleader
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

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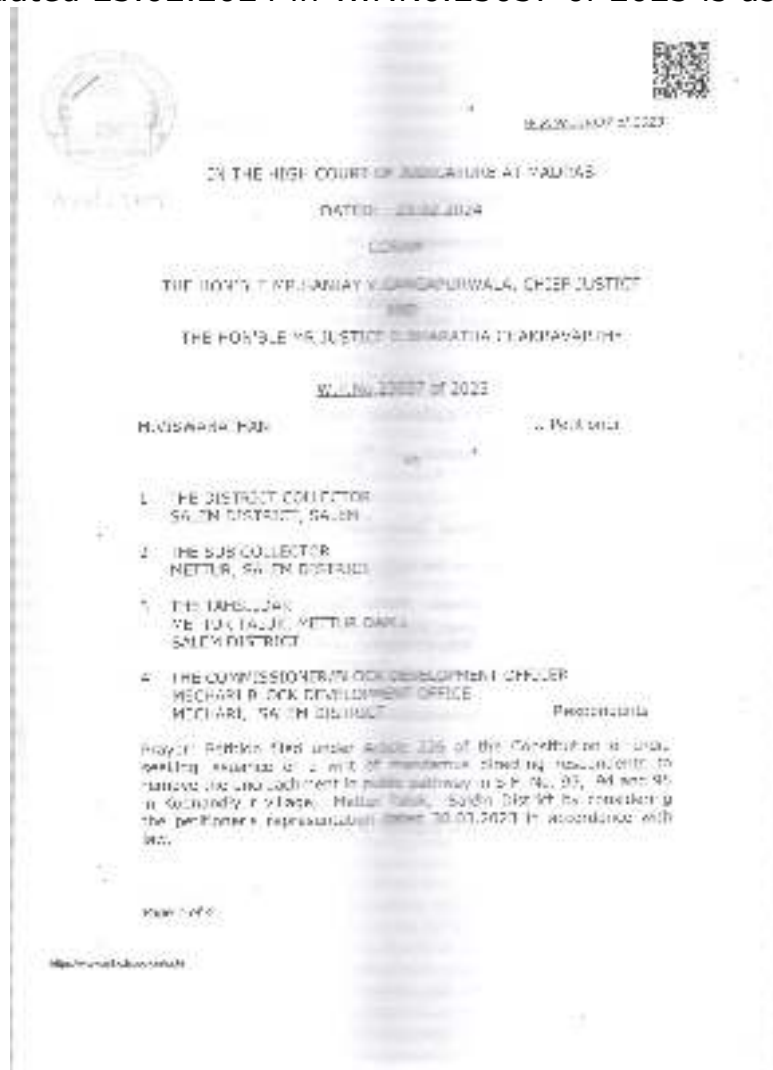


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District' {hereinafter 'said land' for the sake of brevity}.

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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. Nos. 93, 94 and 95
Koonandiur village, Mettur Taluk, Salem District.

For the Petitioner : Mr.D.Lakshmiipathy
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.Lakshmiipathy, 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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W.P.No.73037 of 2023

order as to costs. In view of the disposal of the writ petition,
W.M.P.No.24156 of 2023 filed to implead the proposed respondents
is closed.

(S.V.G., C.J.)

(D.B.C., J.)

23.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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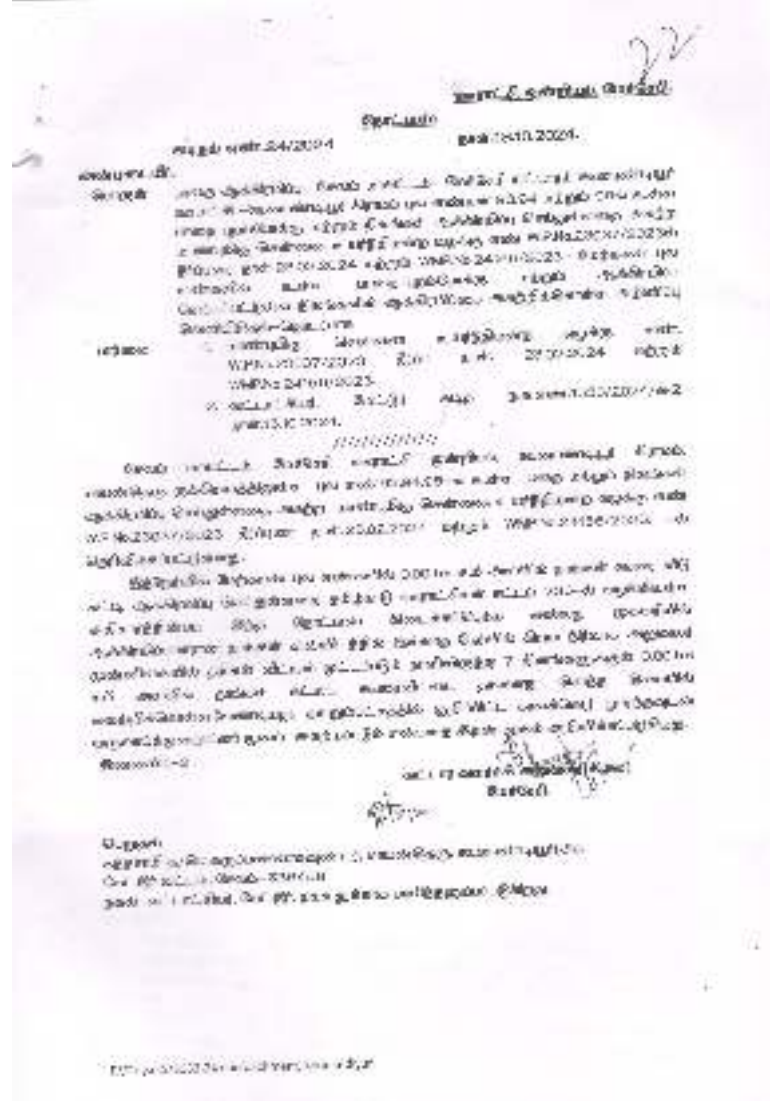
To

- 1 THE DISTRICT COLLECTOR
SALEM DISTRICT, SALEM
- 2 THE SUB COLLECTOR
METTUR, SALEM DISTRICT
- 3 THE TAHSILDAR
METTUR TALUK, METTUR DAM I
SALEM DISTRICT
- 4 THE COMMISSIONER/BLOCK DEVELOPMENT OFFICER
MECHARI BLOCK DEVELOPMENT OFFICE
MECHARI, SALEM DISTRICT.

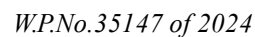


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4. A scanned reproduction of impugned letter is as follows:



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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அய்யா, அனந்தசுந்தரம்

தான் மேற்படி முகவரீயில் எனது குடும்பத்துடன் சுமார் 60 ஆண்டுகளாக வசித்துவருகிறேன். மேற்படி பள்ளையில் உள்ள விவரங்களின்படியான சொத்து எனது அனுபவத்தில் சுமார் 6 டீசல் வரடங்கள் இருந்து வருகிறது. இத்தகைய நிலங்கள் கடந்த 15.10.2024 அன்று மேற்படி விவரங்களின்படியான சொத்தில் உள்ள எனது வீட்டிற்கு எந்த நான் ஆக்கிரமிப்பு செப்துள்ளதாகவும் அதனால் நீங்கள் வீட்டை காலி செய்து கொள்ள வேண்டும் என்று ஓர் ஸம்பொதி உத்தரவிட்டார்கள். நான் அப்போது தங்கலிடம் ஈர் தான் இருந்த இடத்தில் 6 டீசல் வரடமாக விடுகட்டி, வீட்டுவீட்டு, HH பில் கல்லாப் தொடக்கியாகவும், சரியாகவும் எழுந்தி வருகிறேன். மேலும் தங்கள் உரிய சட்டமுறைகளை கடைபிடித்து அதிவிடும் மற்றும் கால அலாசாரும் மற்றும் எனக்கு ஓர் ஸம்பட்டி வழங்கவேண்டும் அப்போதுதான் தான் எனது தரப்பு நிபாயத்தை எடுத்துள்ளதே குடியும்.

அதனே அய்யா அனந்தசுந்தரம் எனது கோரிக்கை மறுவை ஏற்ற மேற்படி உரிய தடமுறைகளை கடைபிடிக்குமாறும் மற்றும் அதனாலும் எனக்கு பத்தியப்பட்ட வீட்டை எந்தவிதமான தொத்தாவும் செய்யக்கூடாது என்ற ஓர் உத்தரவை வழங்குமாறு தங்களை அப்போடு வேண்டுகிறேன்.

இடம் : கணாங்குடி
தாள் : 23/10/24

இயக்கு,
E. S. S. S.

6. Issue notice to respondents.

7. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R3 and Mr.D.Ravichander, learned Special Government Pleader 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.

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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 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



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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 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.

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

(M.S.,J.) (K.R.S.,J.)

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Index : Yes / No

Neutral Citation : Yes / No

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To

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Salem District – 01.
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**M.SUNDAR, J.,
and
K.RAJASEKAR, J.,**

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