



W.A.(MD)No.915 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.A.(MD)No.915 of 2020
and
CMP(MD)No.4976 of 2020

- 1.The District Collector,
Office of the Collectorate Building,
Sivagangai District.
- 2.The Revenue Divisional Officer,
Office of the Collectorate Building,
Sivagangai District.
- 3.The Tahsildar,
Kalaiyar Kovil Tahsildar Office,
Sivagangai District.
- 4.The Block Development Officer,
Amman Patti Village Panchayat,
Thirupachethi,
Sivagangai District.
- 5.The Project Officer (Director),
District and Rural Development Agency,
Sivagangai District.

... Appellants/Respondents

Vs



W.A.(MD)No.915 of 2020

S.P.Pokkisam

...Respondent/Writ Petitioner

Prayer:

This Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.21574 of 2019, dated 10.10.2019 on the file of this Court.

For Appellants : Mr.Veerakathiravan
Additional Advocate General No.III,
assisted by Mr.G.Suriyananth
Additional Government Pleader

For Respondent : Ms.K.Hemakarthiskeyan

JUDGMENT

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

The Writ Appeal is filed against the order passed by this Court in W.P. (MD)No. 21574 of 2019, dated 10.10.2019.

2.By an order dated 12.11.2024, this Court directed the District Collector, Sivagangai to file a better affidavit, since we find that there is a contradiction between the report of the Revenue Inspector and the District Collector. Pursuant to the direction of this Court, the first appellant has filed the better affidavit before this Court and the same is also taken on file.



W.A.(MD)No.915 of 2020

3.The respondent herein filed W.P.(MD)No.21574 of 2019, wherein, he has asked for implementation of an order of the District Collector by the Project Officer (Director), District and Rural Development Agency, Sivagangai District. At this juncture, we like to note that the necessary party, namely, the Secretary, Ammanpatti Panchayat was not added as a party for whose benefit the building is being constructed. This Court, by order dated 10.10.2019, based upon the submissions made by the Government Advocate that the orders of the District Collector will be implemented by the fifth appellant, has disposed of the writ petition. For non-compliance of the said order, the respondent filed Cont.P.(MD)No.122 of 2020 and this Court by order dated 15.06.2022 closed the contempt petition by recording the statement of the learned Special Government Pleader that the construction work has since been completed and a separate pathway has also been laid.

4(a) After perusing the order and the better affidavit filed by the District Collector, we find that the appellants have decided to construct the village panchayat building under the MGNREGS Scheme during the year of 2018-19 in S.No.134/17 at Ammanpatti Village, which is classified as Arasu porambokke in the revenue records. An amount of Rs.17.64 lakhs was allocated for the



W.A.(MD)No.915 of 2020

construction of the Ammanpatti Village Panchayat Building. In order to construct the said building, the first appellant herein gave administration sanction vide proceedings in Na.Ka.TA4/1491/18, dated 20.07.2018. Further, the technical sanction was also granted on 23.07.2018 in Technical Sanction No.741. After considering the administrative and technical sanction, the Block Development Officer, Ammanpatti Village Panchayat issued a work order for the construction of the Panchayat Building to the Secretary on 03.08.2018 with certain conditions more fully to construct the said panchayat building in the landed property comprised in S.No.134 of 2017 of an extent of 1250 sq.ft., at Ammanpatti Village, Kalayarkovil Taluk, Sivagangai District.

4(b) In pursuance of such orders passed by the first appellant and the Block Development Officer, the construction work commenced on 03.08.2018. While this being so, some residents of the said Ammanpatti Village, namely, S.P.Pokkissam, K.Natarajan, K.Ramanathan, A.Ravi, have disputed the said construction of the village panchayat building alleging that if the construction is made, the pathway would be affected and they also presented a representation to the first appellant herein and also one Rajakannan sent a representation to the first appellant/District Collector on 28.01.2019. In pursuance of such representation,



W.A.(MD)No.915 of 2020

the Village Administrative Officer and the Revenue Inspector have conducted an inspection and a Peace Committee meeting on 31.01.2019 and thereafter, the construction work was continued.

4(c) In the meantime, the first appellant acted upon the representation made by the said Rajakannan dated 28.01.2019 and sent a letter to the fifth appellant/Project Director, District Rural Development Agency, Sivagangai, herein to construct the Village Panchayat Building at an alternate place on 15.02.2019, vide his letter No.Mu.Vu.1001/2018-94.

4(d) The communication of the first appellant, dated 15.02.2019 was received by the Secretary of Ammanpatti Village Panchayat and hence, the Secretary of said village panchayat has continued with the construction work. On 26.03.2019, the first payment of Rs.6,80,996/- had been paid for the construction and in the month of August 2019, the entire construction work of the Ammanpatti Village building was completed and the same was communicated to the fifth appellant. Thereafter, the fifth appellant also paid a sum of Rs.8,20,324/- on 12.09.2019 to the Ammanpatti Village Panchayat Secretary, for the construction of the panchayat building.



W.A.(MD)No.915 of 2020

WEB COPY

4(e) In the meantime, the respondent herein filed the above writ petition on 09.10.2019 seeking writ of mandamus to implement the order of the first appellant dated 15.02.2019, wherein, the said Panchayat Secretary was not impleaded as a party in the said writ petition. Hence, the completion of the said panchayat building was not communicated to the Government Advocate during the hearing of the matter. As a result, this Court has disposed of the writ petition on 10.10.2019 based on the undertaking given by the Government Advocate to implement the order of the first appellant dated 15.02.2019. Further, the construction of the panchayat building has in no way affected the public pathway. Further, the writ petitioner has also not objected to the completion of the said building and they were satisfied with the pathway.

5. Taking note of the fact that the contesting respondent, namely, the Secretary of Ammanpatti Village Panchayat, is not added as a party and even before the order that was relied upon by the writ petitioner before this Court, it appears that the District Collector has already ordered a peace committee meeting on 31.01.2019 and the construction work has been handed over to the fifth appellant, he has also completed the construction for the said Village Panchayat



W.A.(MD)No.915 of 2020

Building and necessary steps and the pathway have been provided to the petitioner/respondent. We find that by not impleading the necessary party, the writ petition has been filed and hence, the Additional Government Pleader could not get necessary instructions from the necessary party, namely, the Secretary of Ammanpatti Village Panchayat, resulting in a mixture of facts. Now the better affidavit filed by the District Collector, the cloud over the facts has been clear and the representation of the petitioner/respondent was forwarded to the fifth appellant without noticing the earlier order passed by the first appellant/District Collector with regard to the conducting of peace committee and construction of the building for the said Village Panchayat. Hence, we are inclined to allow the appeal.

6. Accordingly, the Writ Appeal stands allowed and the order passed by the learned Single Judge of this Court, dated 10.10.2019 in W.P.(MD)No.21574 of 2019 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]
12.12.2024

NCC : Yes / No
Index : Yes / No



W.A.(MD)No.915 of 2020

Internet : Yes / No

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RMT.TEEKAA RAMAN, J.
and
N.SENTHILKUMAR, J.

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To

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

W.A.(MD)No.915 of 2020

12.12.2024