



W.A(MD)No.1461 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1461 of 2024
and
C.M.P.(MD)No.11413 of 2024**

Arulmighu Mariamman Thirukovil,
Irukkankudi,
Through its Executive Officer,
Sathur Taluk,
Virudhunagar District.

... Appellant / Petitioner

-VS-

1.The District Collector,
Office of Collectorate,
Virudhunagar,
Virudhunagar District.

2.The Assistant Director,
Village Panchayat,
Virudhunagar.

3.The Block Development Officer,
Sattur Taluk,
Virudhunagar District.

4.Irukkankudi Village Panchayat,
Through its Executive Officer,
Sattur Taluk,
Virudhunagar District.

5.Nathathupatti Village Panchayat,
Through its Executive Officer,
Sattur Taluk,
Virudhunagar District.

... Respondents / Respondents



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PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the judgment dated 28.06.2024 in W.P.(MD)No.13845 of 2024.

For Appellant : Mr.V.R.Shanmuganathan

For R-1 to R-3 : Mr.P.Veera Kathiravan,
Additional Advocate General,
Assisted by,
S.R.A.Ramachandran,
Additional Government Pleader

For R-4 : Mr.M.Ajmal Khan,
Senior Counsel,
For M/s.Ajmal Associates

For R-5 : Mr.S.V.Nagarajan

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Mr.V.P.Jeyaseelan, I.A.S., the District Collector, Virudhunagar, is present in person.

2. The issue relates to dispute between two panchayats regarding control over a certain portion of a land. The notification issued in the District Gazette dated 26.05.1995, under Section 4 of the Tamil Nadu Panchayat Act, 1994, vests 3/4th of land in survey No.933 in Nathathupatti panchayat. It is not in dispute that the remaining 1/4th is situated within Irukkankudi panchayat. The exact area that would fall under the Nathathupatti Panchayat has not been clearly described in the District



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Gazette. The absence of clarity has led to several rounds of litigations including a Civil Suit. The Civil Court has as early as on 29.10.2012 found that a declaration has sought for by the Nathathupatti village panchayat/the plaintiff in the suit cannot be granted. The Civil Court has however in the course of the judgment pointed out that the power to pass a consequential order defining the exact location of the land vest in the District Collector under Section 4 of the Tamil Nadu Panchayats Act, 1994, in his capacity as Inspector of Panchayats.

3. The Civil Court has also found that the lack of clarity is due to the failure on the part of the Collector to pass an order under Section 4. It is stated that an appeal against the said judgment of the Civil Court is also pending in A.S.No.59 of 2012 on the file of the Sub Court, Sivakasi. Be that as it may, we find that the entire dispute can be solved by the District Collector, passing suitable orders after following the procedure prescribed under Section 4(2)(d) of the Tamil Nadu Panchayats Act, 1994. The pendency of the appeal to which the District Collector is not a party will not be a bar to the District Collector from exercising his statutory functions under the Tamil Nadu Panchayats Act, 1994. Though the District Collector has passed an order on 10.10.2024, it is conceded that the said order was not passed after following the procedure prescribed under Section 4(2)(d) of the Tamil Nadu Panchayats Act, 1994. It is also stated that the said order is kept in abeyance.



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4. We therefore direct the District Collector to recall the order dated 10.10.2024 and pass fresh orders after giving notice to the two warring panchayats and after hearing them. The order of the District Collector made under Section 4(1) or 4(2) is also made appealable under Section 4(3). If any one of the panchayats is aggrieved by such decision, it is open to them to invoke the appeal remedy provided under the statute. Adverting to the appeal filed by the temple, we find that the temple is not aggrieved by this order.

5. Though Mr.V.R.Shanmuganathan, learned counsel appearing for the temple would contend that in a writ petition filed by the temple regarding payment of property tax, there is an interim order to pay the tax to the Assistant Director of Panchayats and the tax is being paid to the Assistant Director of the Panchayats. If the Collector decides the issue under Section 4(1), the issue in the said writ petition will also stand resolved. All that the learned single Judge has done is to direct the temple to approach the 4th respondent panchayat, namely, Irrukkankudi Panchayat, seeking planning approval and the learned single Judge has also observed that the same will be subject to the result of the appeal pending before the Sub Court. Once the District Collector passes an order under Section 4(1), the issue in the pending appeal will also stand resolved and as per the decision of the Collector, the panchayat which is found



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entitled to exercise control over the land in question will be entitled to the revenue, namely, the fees for planning permission etc.,

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6. In view of the above, we see no reason to interfere with the order of the learned single judge. The writ appeal, therefore, fails and it is accordingly, dismissed.

7. The District Collector, Virudhunagar, will initiate the process under Section 4 within a period of eight weeks from the date of receipt of a copy of this order and complete the same at the earliest so as to avoid any further litigation on this. The District Collector, Virudhunagar, will forward the application for planning permission to the 4th respondent who will decide in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

14.10.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

To

1.The District Collector,
Office of Collectorate,
Virudhunagar,
Virudhunagar District.

2.The Assistant Director,
Village Panchayat,
Virudhunagar.

3.The Block Development Officer,



Sattur Taluk,
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