



WEB COPY



W.P. No.4289 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No.4289 of 2025 and W.M.P. No.4797 of 2025

P. Sathish Kumar

Petitioner

vs.

1. The District Collector
Namakkal District
Namakkal
2. The Tahsildar
Kumarapalayam Taluk
Namakkal District
3. The Revenue Inspector
Pallipalayam
Namakkal District
4. The President
Anangur Village Panchayat
Anangur
Kumarapalayam Taluk
Namakkal District

5. N. Jayaraj

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the order of the first respondent dated 20.01.2025 in Na.Ka.29212-2024-L5 and the original order of the second respondent dated 07.11.2024.



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For petitioner	Mr. K. Selvaraj
For RR 1 - 3	Mr. T.K. Saravanan Addl. Govt. Pleader
For R4	Mr. M.S. Arasakumar Government Advocate

ORDER

[made by **K. GOVINDARAJAN THILAKAVADI, J.**]

This writ petition has been filed seeking quashment of the proceedings dated 20.01.2025 of the first respondent and the notice dated 07.11.2024 of the second respondent.

2. Brief facts:

2.1 It is the contention of the writ petitioner that he owns the lands in S.Nos.547/11, 547/15 and 665/10 in Anangur Village, Kumarapalayam Taluk, Namakkal District and he obtained permission for constructing a house in the said lands. It is his further contention that construction was inadvertently put up in the adjacent Village Natham land comprised in S.No.655/8 to an extent of 0.0060.0 sq.m.

2.2 While so, the fifth respondent (private respondent-N.Jayaraj) preferred a writ petition being W.P.No.30136 of 2023



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arraying the petitioner herein as R4 and seeking a direction to the official respondents therein to demolish the house constructed by the writ petitioner herein (R4 therein) in S.No.655/8 on the ground that the said construction has been made in the land belonging to the Village Panchayat.

2.3 Another Hon'ble Division Bench of this Court, *vide* order dated 06.02.2024, disposed of W.P.No.30136 of 2023, the relevant portion of which reads thus:

"5. The learned counsel for respondent no.4 may make an application to the authority concerned. It is for the authority to consider whether the said application would be in tune with the policy, rules and regulations and then take a decision. Pursuant to the said decision, steps be taken to remove the encroachment."

2.4 Pursuant to the aforesaid order, the petitioner addressed a representation dated 20.03.2024 to the fourth respondent Panchayat *qua* exchange of land as contemplated under Rules 4 and 5 of the Tamil Nadu Panchayats (Acquisition and Transfer of Immovable Property) Rules, 2000 (for brevity "the Rules").



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2.5 The fourth respondent Panchayat, by letter dated 07.11.2024, informed the writ petitioner that his application is under consideration.

2.6 When things stood thus, the second respondent (Tahsildar) issued an eviction notice dated 07.11.2024 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity "the 1905 Act"). Thereagainst, the writ petitioner preferred an appeal dated 12.11.2024 to the first respondent (District Collector) in which the latter passed an order dated 20.01.2025 rejecting the appeal.

2.7 Calling in question the order passed in his appeal, the writ petitioner preferred a revision on 10.02.2025.

2.8 Pending revision, the eviction notice dated 07.11.2024 issued by the second respondent and the proceedings dated 20.01.2025 of the first respondent rejecting the writ petitioner's appeal, are put to challenge in this writ petition.

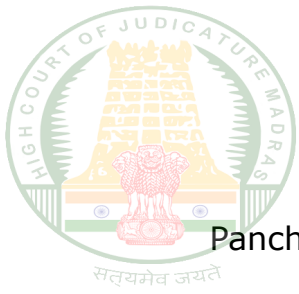


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3. Heard Mr. K. Selvaraj, learned counsel for the writ petitioner and Mr. T.K. Saravanan, learned Additional Government Pleader and Mr.M.S. Arasakumar, learned Government Advocate, who accept notice for RR 1 to 3 and R4 respectively.

4. Learned counsel for the writ petitioner submits that the writ petitioner's appeal has not been considered by the first respondent as per the provisions of the Rules. In other words, according to the learned counsel, only after considering the proceedings made by the fourth respondent (Panchayat President), the first respondent ought to have passed the impugned order dated 20.01.2025. He further contended that even in the writ petition being W.P.No.30136 of 2023 preferred by the fifth respondent, this Court has observed that the application made by the writ petitioner shall be considered by the authority concerned in tune with the policy, rules and regulations and hence, the proceedings dated 20.01.2025 passed by the first respondent is unsustainable.

5. Section 2(5) of the Tamil Nadu Panchayats Act, 1994, defines the term "Collector" as the Collector of a revenue district; Section 2(21), *ibid.*, defines the term "Panchayat" as a Village



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Panchayat, a Panchayat Union Council or a District Panchayat constituted under the said Act; and the term "Inspector" is defined under Section 2(16) as any officer not below the rank of a Collector appointed by the Government to exercise or perform any of the powers or duties of the Inspector under this Act. Even Rule 5 of the Rules contemplates that a Panchayat shall not, without the previous sanction of the Inspector, make or sanction any transfer, except by way of lease, of any immovable property belonging to it, or create or sanction the creation of any charge upon any such property.

6. In the instant case, the sanctioning authority himself, *i.e.*, the Collector, has declined the writ petitioner's request. In such perspective of the matter, the remedy available to the writ petitioner is only to pursue the pending revision under Section 10-A of the 1905 Act.

7. In view of the aforemade discussion, the following order is made:



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(i) The writ petitioner is at liberty to pursue the pending revision under Section 10-A of the 1905 Act in which he can raise all his contentions, including his request for consideration of application before the Panchayat President; and

(ii) The Revisional Authority shall consider the revision on its own merits and in accordance with law and pass final orders, untrammelled by any of the observations made in this order, as expeditiously as his business would permit,

8. Before parting, it is pertinent to point out that both the learned counsel for the writ petitioner and the learned State counsel are agreeable for this order being passed so.

This writ petition stands disposed of on the above terms.
Connected W.M.P. stands closed. There shall be no order as to costs.

(M.S., J.)

(K.G.T., J.)

24.02.2025

cad

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order



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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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To:

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