

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 18.08.2025

Order pronounced on : 12.09.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.1921 & 2221 of 2025
& CMP.Nos.10978 & 12868 of 2025

CRP.No.1921 of 2025:

A.Chellammal

..Petitioner

Vs.

1.M.Gayathri

2.The Chief Election Commissioner of Tamilnadu
Koyambedu,
Chennai.

3.The District Election Commissioner/District Collector,
Salem.

4.The Returning Officer cum Executive Officer,
Ward No.5, Nangavalli Town Panchayat,
Salem District – 636 454.

5.Gomathi

..Respondents

Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order and decretal order passed in I.A.No.2 of 2022 in E.O.P.No.72 of 2022 on the file of the Principal District Judge, Salem dated 06.02.2025.



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For Petitioner : Mr.Charles Kamalesh M.Appaji

For Respondent : Mr.I.S.Inbadurai for R1
Mr.N.Muthuvel
Government Advocate for RR2 & 3
Ms.S.Indhubala for R4
No appearance for R5

CRP.No.2221 of 2025:

The Returning Officer cum Executive Officer,
Ward No.5, Nangavalli Town Panchayat,
Salem District – 636 454.

..Petitioner

Vs.

1.M.Gayathri

2.The Tamilnadu Chief Election Commissioner,
Koyambedu,
Chennai.

3.The District Election Commissioner/District Collector,
Salem – 636 001.

4.A.Sellammal

5.Gomathi

..Respondents

Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the impugned order dated 06.02.2025 made in I.A.No.2 of 2022 in E.O.P.No.72 of 2022, on the file of the Principal District Judge, Salem.

For Petitioner : Ms.S.Indhubala



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CRP.Nos.1921 & 2221 of 2025



For Respondent : Mr.I.S.Inbadurai for R1
Mr.N.Muthuvel
Government Advocate for RR2 & 3
Mr.Charles Kamalesh M.Appaji for R4
No appearance for R5

COMMON ORDER

The 4th respondent in E.O.P.No.72 of 2022 is the revision petitioner in CRP.No.1921 of 2025 and the Returning Officer cum Executive Officer, the 3rd respondent in the same proceedings is the revision petitioner in CRP.No.2221 of 2025.

2.I have heard Mr.Charles Kamalesh M.Appaji, learned counsel for the petitioner in CRP.No.1921 of 2025 and 4th respondent in CRP.No.2221 of 2025, Ms.S.Indhubala, learned counsel for the petitioner in CRP.No.2221 of 2025 and 4th respondent in CRP.No.1921 of 2025, Mr.I.S.Inbadurai, learned counsel for the 1st respondent and Mr.N.Muthuvel, learned Government Advocate for the respondents 2 and 3 in both the CRPs.

3.The proceedings arise under E.O.P.No.72 of 2022, in and whereby, one M.Gayathri, as petitioner in I.A.No.2 of 2022, has filed the election OP, challenging the election conducted for Nangavalli Town Panchayat, Ward No.5. Admittedly, the bone of contention is with regard to two postal votes.

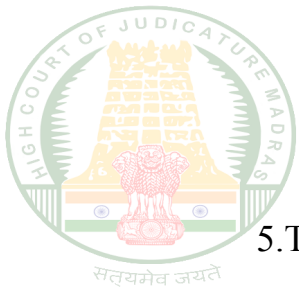


The petitioner filed I.A.No.2 of 2022, contending that the election is under challenge and pending the OP, there should be no manipulation of documents

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and the machineries and other instruments, along with the petition mentioned documents, should be given to the custody of the Court. The said application was resisted by the Returning Officer cum Executive Officer, stating that the documents, that are now subject matter of the application, are already in the safe custody of the Tamilnadu Chief Election Commissioner and the Returning Officer, without permission or orders from the Tamilnadu Chief Election Commissioner, cannot comply with the directions, as sought for by the petitioner.

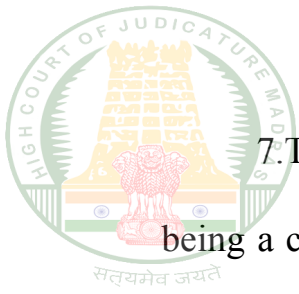
4.It is also contended by the Returning Officer that Electronic Voting Machine (EVM) and CCTV footage of the concluded local body elections of Salem District and all connected documents and instruments are kept in the strong room of District Election Commissioner/District Collector, Salem and therefore, there is no merit in the request made by the revision petitioner. The Returning Officer has filed a counter, stating that as per election rules, the polled votes have been counted and declared and in terms of the results declared, the petitioner has not secured any postal votes and the only two postal votes that have been polled are invalid and therefore, the application is totally baseless and liable to be dismissed.



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5.The Principal District Court, Salem, after factoring the contentions advanced by the counsel on both sides, took note of the fact that the petitioner did not press for the counting machines, though originally sought for in the petition and argued only in respect of the remaining prayer made in I.A.No.2 of 2022, which related to the CCTV footage and postal votes. Considering the interest of justice and no prejudice would be caused, the Court has directed the respondents 1 to 3 in the said application, to send the CCTV footage as well as the postal votes to the Court.

6.The revision at the instance of the 4th respondent is on the grounds that the revision petitioner was the successful candidate, having secured 308 eligible votes and the 1st respondent secured only 307 eligible votes and the revision petitioner was declared as the successful candidate by margin of one vote. Insofar as the two postal votes, it is the contention of the learned counsel for the revision petitioner that both the two postal votes have already been declared invalid and a frivolous claim has been made by the 1st respondent, as if the said two postal votes were cast in her favour and the same would tilt the balance and affect the final result of the election itself.



7. The learned counsel would further state that the Election Commission, being a constitutional authority and custodian of records, can always be called upon to produce the documents, during trial of the Election Petition and there cannot be piecemeal directions issued to the Election Commission. He would therefore state that the Election Commission, being a party respondent, suitable directions can always be issued to them. He would therefore state that the order in the I.A.No.2 of 2022 deserves to be set aside.

8. The revision petition in CRP.No.2221 of 2025 filed by the Returning Officer is challenging the very same order, on the ground that, though the 1st respondent claims that the Returning Officer has invalidated the postal votes, illegally, the same is not substantiated by any material whatsoever and unless the 1st respondent establish the same at trial, no directions can be issued in respect of production of CCTV footage and postal votes, even before commencement of trial.

9. As rightly contended by the revision petitioners, it is the constitutional duty of the election officials to safeguard the records pertaining to the election which is under challenge. Even in the reply to the RTI filed by the 1st respondent, the Election Commission has only stated that the Election Commission would produce the documents to the Court and the said reply



given under the provisions of the RTI ought to have been construed on a proper perspective. Unfortunately, the Trial Court has stated that since the Election Commission is willing to produce the documents, no serious prejudice would be caused by summoning the CCTV footage as well as the postal votes to the Court.

10.As rightly pointed out by the learned counsel for the petitioners, trial is yet to commence in the election OP. There is sufficient and more safeguards taken to protect the CCTV footage as well as the postal votes, which are retained by the Election Commission in a strong room. Therefore, if at all the Court requires to examine these documents, after commencement of trial or at the appropriate stage, suitable directions can always be issued, especially, since the official respondents are also parties to the election OP. Absolutely, no just or necessary cause is made out for summoning the same, to be kept in the Court, pending the election OP.

11.In fact, the Trial Court ought to have taken note of the readiness of the Election Commission to produce the records before the Court and proceeded to dismiss the interlocutory application filed by the 1st respondent, reserving liberty to issue suitable directions to the Election Commission/authorities concerned at the appropriate time, if it becomes necessary to consider the



CCTV footage and the postal votes. However, the said exercise, even before commencement of trial, is totally unwarranted and uncalled for. In the light of

the above, I am inclined to set aside the order in I.A.No.2 of 2022.

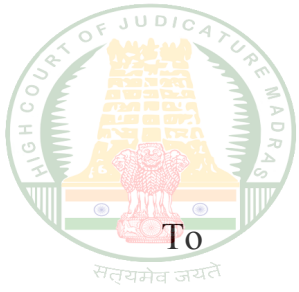
12.In fine, the Civil Revision Petitions are allowed and the order dated 06.02.2025 in I.A.No.2 of 2022 in E.O.P.no.72 of 2022 on the file of the Principal District Judge, Salem, is set aside, however, giving liberty to the learned Principal District Judge, Salem to summon/call for the documents, during trial and until such time, the respondents 1 and 2 in I.A.No.2 of 2022 i.e the Chief Election Commissioner, Tamil Nadu and District Election Commissioner/District Collector, Salem, are required to continue to retain the CCTV footage and postal votes in safe custody. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

12.09.2025

Speaking/Non-speaking order

Index : Yes/No

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Ward No.5, Nangavalli Town Panchayat,
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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.Nos.1921 & 2221 of 2025
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