



W.P.No.20732 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR
AND
THE HONOURABLE MS. JUSTICE R.N. MANJULA

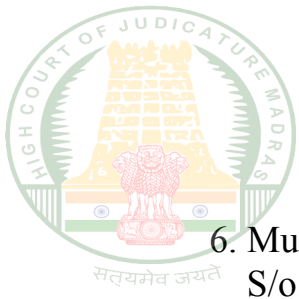
W.P.No.20732 of 2022

N.K.Palanisamy
S/o.Kandhasamy

... Petitioner

vs.

1. The District Collector
O/o.The District Collector
Salem -1
2. The Assistant Director (Rural Development)
O/o the District Collector
Salem – 1
3. The Block Development Officer (Panchayat Raj)
Veerapandi Taluk
Salem District
4. Uthamasolapuram Panchayat
Rep. By its President
Uthamasolapuram, Salem
5. Rajeswari
W/o.Kailasam (Late)



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6. Muthuraja
S/o.Athiyappan

... Respondents

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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the fourth respondent to remove the encroachments in S.Nos.170/1 and 170/4, Uthamasolapuram Village, Veerapandi Taluk, Salem District as per the communication of the 3rd respondent dated 23.03.2022 within a time frame as may be fixed by this Court.

For petitioner : Mr. T.Shanmugam

For Respondents : Mr.S.Arasakumar
Government Advocate for R1 and R2

Mr.T.K.Saravanan
Addl. Govt. Pleader for R3 and R4

No Appearance for R5 and R6

ORDER

(Order of the Court was made by M. SUNDAR, J.)

Subject matter of captioned writ petition is lands comprised in 'S.Nos.170/1 and 170/4 in Uthamasolapuram Village, Veerapandi Taluk, Salem District' [hereinafter 'said lands' for the sake of brevity].

2. Mr.T.Shanmugam, learned counsel for writ petitioner submits that private respondents R5 (Rajeswari) and R6 (Muthuraja) have encroached upon said lands, writ petitioner has sent a representation dated 16.02.2022,



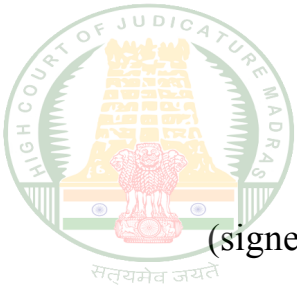
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pursuant to writ petitioner's representation, R4 has sent a communication to the writ petitioner being communication bearing reference ந.க.எண்.270/2022/த3 signed by R4 on 23.03.2022 but there is inaction is learned counsel's further say.

3. All the six respondents have been duly served. Mr.T.K.Saravanan, learned State counsel (Additional Government Pleader for R1 to R4) is before us, private respondents (R5 and R6) have been duly served and their names together with addresses as in the short cause title is duly shown in the cause list but there is no representation either in the physical Court or on the 'VC' ['Videoconferencing'] platform. To be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court. This Court is informed by the Registry that R5 and R6 have not chosen to enter appearance through counsel.

4. Learned State counsel submits that R4, if he finds encroachment or if encroachment is brought to his notice, should act under Section 131(2) of 'Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'said Act' for the sake of convenience and clarity].

5. The aforementioned communication from R4 to writ petitioner



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(signed by R4 on 23.03.2022 bearing reference ந.க.எண்.270/2022/தி3) is

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அனுப்புதல்
திரு.எஸ்.துமிழ்செல்வன், பி.எஸ்.சி. எம்.எஸ்
வட்டாரவளர்ச்சி அலுவலர் (சி.ஊ)
ஊராட்சி

பெறுதல்
N K பழனிசாமி த/பெ கந்தசாமி,
3/354 முன்சிப் கோட்டம்,
சங்கிரி மெயின்ரோடு,
உத்தமசோழபுரம், சேலம்-10

ந.க.எண்.270/2022/தி3
நாள். 03.2022

பொருள்: புகார்மனு -சேலம் மாவட்டம்- வீரபாண்டி ஊராட்சி ஒன்றியம் - உத்தமசோழபுரம்
ஊராட்சி சர்வே எண்.170/4 (ம) 171/1 ல் உள்ள பஞ்சாயத்து சாலையை
ஆக்கிரமிப்பு செய்துள்ளதாக வரப்பெற்ற புகார்மனு மீது மேற்கொண்ட
நடவடிக்கை விவரம்- தெரிவித்தல்- தொடர்ச்சி.

பார்வை: 1) திரு.N.K. பழனிசாமி, உத்தமசோழபுரம் என்பவரின் மனு நாள்.16.02.2022
2) ஊரக வளர்ச்சி உதவி இயக்குநர் (ஊராட்சிகள்) சேலம் அவர்களின்
கடித.ந.க.எண்.3814/2021/அ7 நாள்.21.02.2022
3) மண்டல துணை வட்டார வளர்ச்சி அலுவலர் (ம-3) வீரபாண்டி
அவர்களின் தல ஆய்வறிக்கை நாள். 08.03.2022

பார்வை 1ல் காணும் புகார் மனுவில் சேலம் மாவட்டம், வீரபாண்டி ஊராட்சி
ஒன்றியத்திற்குட்பட்ட உத்தமசோழபுரம் ஊராட்சியில் சர்வே எண்.170/4 மற்றும் 171/1ல்
உள்ள பஞ்சாயத்து சாலையை சிலர் ஆக்கிரமிப்பு செய்து உள்ளதாகவும், ஆக்கிரமிப்பை
அகற்றி சாலையை பராமரிப்பு செய்து தருமாறு தெரிவித்துள்ளார்.

பார்வை 3ல் காணும் மண்டல துணை வட்டார வளர்ச்சி அலுவலர் (ம-2) அவர்களின்
தல ஆய்வறிக்கையில் மேற்கண்ட இடத்தில் ஆக்கிரமிப்பு செய்துள்ள
திருமதி.இராஜேஸ்வரி க/பெ கைலாசம் (வேட்) மற்றும் திரு.முத்துராஜ் த/பெ அத்தியாப்பன்
ஆகியோரிடம் விசாரணை மேற்கொண்ட தில் சாலை ஆக்கிரமிப்பை அகற்றி விடுவதாக
கூறிவுள்ளனர், என தெரிவித்துள்ளார்.

எனவே, மேற்கண்ட இடத்தில் உள்ள ஆக்கிரமிப்பை அகற்றி சாலையை பராமரிப்பு
பணிகள் மேற்கொள்ள உத்தமசோழபுரம் ஊராட்சி மன்றத் தலைவருக்கு
தெரிவிக்கப்பட்டுள்ளது, என்பதை இதன் மூலம் மனுவாரருக்கு தெரிவிக்கப்படுகிறது.

வட்டாரவளர்ச்சி அலுவலர் (சி.ஊ)
ஊராட்சி

நகல்.
1) ஊரகவளர்ச்சி உதவிஇயக்குநர் (ஊராட்சிகள்) சேலம் அவர்களுக்கு அறிவிக்கணும் (நகல்)
2) ஊராட்சி மன்ற தலைவர், உத்தமசோழபுரம் ஊராட்சி சேலம்.

6. A careful perusal of sub-section (2) of Section 131 of said Act

brings to light that action under said Section should be initiated either by

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the Executive Authority or the Commissioner concerned. Both 'Executive Authority' and 'Commissioner' are defined terms, the same having been defined in said Act vide Sections 2(11) and 2(6) respectively. Adverting to Section 85 of said Act, learned State counsel submits that R4 is a Commissioner within the meaning of Section 2(6) of said Act. This aspect of the matter has been dealt with by this Court in and by order dated 09.07.2024 in W.P.Nos.18256, 18259 & 18263 of 2024. Relevant paragraphs are Paragraphs 8 to 15 and the same reads as follows:

'8. We find that I and II impugned notices have been issued under Section 131(2) of 'The Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'said Act'] read with Section 222 thereat. Owing to the nature of submission before us, we deem it appropriate to test if impugned notices have been issued by a competent authority and we do so. We find that Section 131(2) notice under said Act can be issued by two authorities namely 'Executive Authority' or 'Commissioner' and both these terms are defined under said Act, while Executive Authority is defined vide Section 2(11) of the said Act, Commissioner is defined vide Section 2(6) of the said Act. Section 2(11) takes us to Section 83 of the said Act and Section 2(6) takes us to Section 85 of the said Act.



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9. Section 131(2) reads as below :

'131. Prohibition against obstructions in or over public roads etc.

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department, and it shall be the duty of the Executive Authority or the Commissioner concerned either suo motu or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal.'

10. Section 222 reads as below :

'222. Time for complying with notice, order etc., and power to enforce in default :

(1) Whenever by any notice, requisition or order under this Act, or under any rule, bye-law or regulation made thereunder, any person is required to execute any work, to take any measures or to do anything, a reasonable time shall be named in such notice,



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requisition or order within which the work shall be executed, the measure taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so named :-

(a) the Executive Authority of the Village Panchayat or the Commissioner or the Secretary or the Collector; as the case may be, may cause such work to be executed, or may take any measure or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order; and

(b) if no penalty has been specially provided in this Act for failure to comply with such notice, requisition or order, the said person shall be punishable with fine not exceeding fifty rupees for every such offence.'

11. Section 2(11) reads as below:

*'2(11) "**Executive Authority**" means a person notified as such by the Government under Section 83;'*

12. Section 2(6) reads as below:

*'2(6) "**Commissioner**" means the Commissioner of a Panchayat Union;'*

13. Section 83 reads as below :

*'83. **Executive Authority of Village Panchayat:-** The Government may, by notification, appoint any person, who shall,*



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subject to such rules as may be prescribed, exercise the powers and perform the functions of the Executive Authority of a Village Panchayat.'

14. Section 85 reads as below :

'85. Commissioner:- *(1) A Commissioner shall be appointed by the Government in the case of each Panchayat Union Council. Such Commissioner shall ordinarily be the Development Officer appointed in pursuance of the National Extension Service Scheme of Community Development for the Panchayat Development Block.*

(2) No recovery shall be made from the Panchayat Union Council towards the salary and allowances paid to any Commissioner or towards his leave allowances, pension and Provident Fund.

(3) The Government shall have power to regulate the method of recruitment, conditions of service, pay and allowances and discipline and conduct of the Commissioner appointed under sub-section (1).

(4) The Commissioner shall :-

(a) have the right to attend the meetings of the Panchayat Union Council or of any committee thereof and take part in the discussions thereat, but without the right to move any resolution or to vote;

(b) attend any meeting of the Panchayat Union Council or of any Committee thereof if required to do so by the Chairman;

(c) carry into effect the resolutions of the Panchayat Union



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Council;

(d) furnish to the Panchayat Union Council such periodical reports regarding the progress made in carrying out resolutions of that body and in the collection of taxes as the council may direct;

(e) control all the officers and servants of the Panchayat Union Council;

(f) perform all the duties specifically imposed and exercise all the powers conferred on the Commissioner by this Act and subject, whenever it is hereinafter expressly so provided, to the sanction of the Panchayat Union Council and subject also to all other restrictions, limitations and conditions hereinafter imposed, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act.

(5) Notwithstanding anything contained in sub-section (2) of Section 16 and subject to all other provisions of this Act and the rules made thereunder, the Panchayat Union Council shall have power to issue such specific directions as it may think fit regarding the performance by the Commissioner of any of the functions assigned to him under this Act;

Provided that where such directions relate to any National Extension Service Scheme of Community Development or any other scheme specially entrusted by the Government to the Panchayat Union Council, the directions issued by the council shall be in conformity with the terms and conditions of such entrustment.

(6) Subject to any directions given or restrictions imposed by



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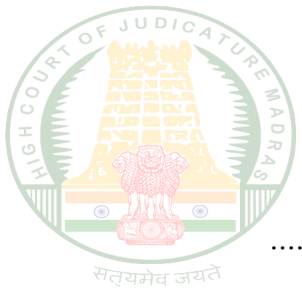
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the Government or the Panchayat Union Council, the Commissioner may, by an order in writing, delegate any of his functions to any officer or servant of the Panchayat Union Council or to any servant of the Government. The exercise or discharge of any functions so delegated shall be subject to such restrictions, limitations and conditions as may be laid down by the Commissioner and shall also be subject to his control and revision.'

15. A careful and conjoint reading of the above provisions make it clear that the third respondent qualifies as a Commissioner, is learned State counsel's say. '

7. In the light of the narrative thus far, it is now for R4 to initiate a drill under Section 131(2) of said Act. This Court is of the view that R4 will do well to commence the drill as expeditiously as the business of R4 would permit but in any event within eight weeks from today i.e., on or before 02.06.2025. For the sake of convenience of all concerned, we deem it appropriate to extract and reproduce sub-section (2) of Section 131 of said Act, which reads as follows:

"131. Prohibition against obstructions in or over public roads, etc., (1)



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(a)

(b)

(c)

(d)

(f)

(2) *It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department, and [it shall be the duty of the Executive Authority or the Commissioner concerned either suo motto or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act] and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal.'*

8. The mandamus prayer is answered in the afoesaid manner and it gives a closure to the captioned writ petition.



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Captioned writ petition disposed of in the aforesaid manner. There

shall be no order as to costs.

(M.S., J.) (R.N.M., J.)
07.04.2025

Index: Yes/No
Internet: Yes/No
gpa

To

1. The District Collector
O/o.The District Collector
Salem -1
2. The Assistant Director (Rural Development)
O/o the District Collector
Salem – 1
3. The Block Development Officer (Panchayat Raj)
Veerapandi Taluk
Salem District
4. The President
Uthamasolapuram Panchayat
Uthamasolapuram, Salem

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