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DATED: 13-11-2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 43218 of 2025

1. Dr.S.G.Suryah
No. 23, 1st Cross Street,
Dr.Radhakrishnan Nagar,
Thiruvanmiyur, Chennai -600041.

2.D.Sabariselvan,
No. 2/100, Anna Nagar, Belur
Karadipatti, Kottavadi(P.O),
P.N.Palayam Taluk, Salem -636115.

Petitioner(s)

Vs

1. The District Collector
District Collector Office, Fort Main
Road, Salem -636001.

2.The Executive Officer,
Yethappur Town Panchayat, Bazaar
Street, Veeragoundanur, Yethappur,
Salem -636117.

3.Muthumalai Murugan Temple Trust,
Represented By Its Managing Trustee,
Yethappur, Puthira Goundampalayam,
Salem -636 117.

Respondent(s)

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PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring the impugned Resolution No.496(19) dated 28.03.2025 passed by the 2nd respondent, Yethappur Town Panchayat to collect the toll through the 4th respondent at Muthumalai Murugan Temple Road, Yethappur Town Panchayat, salem District as Null and void.

For Petitioner(s): Mr.G.Mutharasu
For Mr.Abhilash Gopinathan

For Respondent: Ms.C.Meera Arumugham
Additional Government Pleader
(For R1)

Mr.S.Rajesh
(For R2)

R3 – Notice Dispensed With

ORDER

The petitioners are two in number. It is their case that there exists a temple under the name and style of “Muthumalai Murugan Temple”, Pethanaickenpalayam Taluk, Yethapur, Salem District. The temple is a private temple. The petitioners claim that they are devotees of Lord Murugan and offer prayers at Muthumalai Murugan Temple on a regular basis.

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2. The access to the temple is from National Highway 79 (NH 79). It runs through the road maintained by Yethappur Town Panchayat. The petitioners assert that no part of the temple or the lands owned by it, are administered by the Executive Officer of Yethappur Town Panchayat.

3. The cause of action in the writ petition is the resolution passed by the Town Panchayat in Resolution No. 496 (19) dated 28.03.2025. In terms of this resolution, the second respondent has decided to collect toll/tariff from vehicles going to the temple. A banner displaying the tariffs applicable to the vehicles specifies that such fees are being levied for Tourism purposes.

4. The grievance of the petitioners is that there is no empowerment under law, enabling the second respondent to collect such a toll. It is pertinent to point out that on the strength of the resolution, a contractor by name M/s.M.P.Constructions, has been awarded the right to collect the fee. Hence, they have come forward with this petition, seeking a declaration that Resolution No. 496 (19) dated 28.03.2025, is illegal and unconstitutional.

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5. When the matter came up for admission, Ms.C.Meera Arumugham, learned Additional Government Pleader, takes notice for the first respondent and Mr. S.Rajesh, takes notice for the second respondent. As no relief is sought against the third respondent, notice to the third respondent is dispensed with.

6. Mr. Rajesh invites my attention to Section 95 of the Tamil Nadu Uraban Local Bodies Act. In terms of the Act, a local body is entitled to levy a toll on any road or bridge made, improved, repaired solely at the expense of the municipality; or any road or bridge made, improved or repaired at the expense of any person or body or association of individuals, whether incorporated or not. It also demands that the total expenditure incurred on the road or bridge shall not be below such limit, if any, as the Council may, by bye-laws, determine.

7. Mr. G.Mutharasu, appearing for the writ petitioner, pleads that Section 95(1) (a) and (b) is governed under Section 95(2) (a) and (b). The rates fixed must be commensurate to the recovery of amounts expended upon the road or bridge by the municipality. In case of 95(1)(a) and 95(1)(b), the rate must be

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fixed by the Government.

8. There is no dispute that the road has been laid by the second respondent municipality. It is also not in dispute that the rates are yet to be notified by the first respondent.

9. Mr.Rajesh has produced the files, which show that the second respondent has written to the first respondent, seeking the rates fixed under the resolution to be notified by the first respondent/District Collector. It is also admitted that the first respondent is yet to notify the same in the Government Gazette. As long as the notification has not been issued by the first respondent, the second respondent is not entitled to proceed further and collect the fees.

10. The first respondent, before notifying the request of the second respondent, shall ensure that the levy that has been made by the second respondent, is in accordance with Section 95(2)(a) of the Act. Once he is satisfied that Section 95(2)(a) of the Act has been complied with, he can proceed further and issue the notification. Thereafter, the second respondent

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may appoint any person it chooses and collect the toll fee or by itself, if it so desires. As long as Section 95(2)(a) of the Act has not been complied with, the second respondent is not entitled to collect the toll.

11. Hence, the writ petition is ordered and the petitioner is granted with relief on the following terms:

(1) The request of the petitioner that the resolution itself must be declared null and void, is denied;

(2) The second respondent shall justify before the first respondent, the expenditure that has been undertaken by the second respondent to maintain the road leading to the temple, and, thereafter, the rate shall be fixed by the 1st respondent it commensurate with the expenditure so incurred;

(3) Once the first respondent is convinced with the reasons given by the second respondent, he shall duly notify the same in the Gazette;

(4) Till then, the collection of the toll under the impugned resolution shall be kept in abeyance.

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12. However, there shall be no order as to costs.

13-11-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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V.LAKSHMINARAYANAN, J.

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