



W.A.(MD)No.1353 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A.(MD)No.1353 of 2022
and
C.M.P.(MD)No.10613 of 2022**

L.Rajendra Rao

... Appellant

Vs.

1.The Commissioner,
Sengottai Municipality,
Sengottai,
Tirunelveli District.

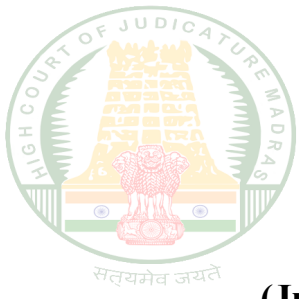
2.N.Ananthakrishnan

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal and set aside the order dated 28.09.2022 in W.P.(MD).No.1707 of 2015 on the file of this Court.

For Appellant : Mr.T.S.R.Venkataramana, Senior Counsel,
For Ms.V.Janaki Devi.

For Respondents : Mr.P.Athimoola Pandian,
Standing Counsel for R1.
Mr.N.Seylappa Kalyan for R2.



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JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

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Heard the learned senior counsel for the appellant, the learned standing counsel for Sengottai Municipality and the learned counsel for the second respondent.

2.The appellant along with one Ananthakrishnan who is shown as the second respondent herein filed W.P.(MD)No.1707 of 2015 challenging the resolution No.302 dated 26.12.2022 passed by Sengottai Municipal Council. The writ petition was dismissed vide order dated 28.09.2022. Challenging the same, this writ appeal has been filed.

3.It is seen that Sengottai Municipality Property Tax Payers Protection Organization filed O.S.No.48 of 1992 on the file of the District Munsif Court, Sengottai challenging the revision of property tax for the second half year of 1987 – 1988. The suit was decreed as prayed for on 30.06.1993. Questioning the same, Sengottai Municipality through its Commissioner filed A.S.No.76 of 1993 and A.S.No.61 of 1996 before the Sub Court, Sengottai. The first appeals were dismissed on 28.02.1997 and decision of the trial Court was affirmed.



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4. According to the decree holders, Sengottai Municipality acted contrary to the terms of the decree. Hence, in E.P.No.3 of 2004, they filed E.A.No.91 of 2004 to bring on record the tax demand registers maintained by the municipality. The said EA was dismissed by the Executing Court on 04.11.2004. Challenging the same, the decree holders filed C.R.P.(NPD)(MD)No.312 of 2005. When the civil revision petition was taken up for final disposal on 17.07.2007, the following order was passed:-

“The present civil revision arises out of the order passed in E.A.No.91 of 2004 in E.P.No.3 of 2004 in O.S.No.48 of 1992 on the file of the District Munsif Court, Sengottai. The petitioners in the civil revision petition filed this revision under Section 115 of the Civil Procedure Code. The first petitioner is Sengottai Municipality Property Tax Payers Protection Organization, through its President and the second petitioner is Peer Mohamed, representative of the Sengottai tax payers and also for himself.

2. When the civil revision petition was taken up for hearing, the learned counsel for the petitioners submitted that the relief sought by the petitioners in C.R.P.(NPD)(MD)No.312 of 2005 was placed before the respondent and the respondents has considered the grievance of the petitioners.



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3.A resolution was passed in Resolution No.123, dated 31.05.2007 by which the petitioners got the relief. Therefore, the revision petition deserves to be closed in view of the subsequent events that has taken place. A resolution copy was also filed before this Court after giving a copy to the respondent's counsel.

4.In the light of the submissions putforth by the learned counsel for the petitioners, the present civil revision petition need not be adjudicated and therefore, the civil revision petition is closed.

In the result, the civil revision petition is closed. Consequently, connected C.M.P.(MD)Nos.705 and 706 of 2005 are closed. No costs.”

5.The learned senior counsel for the appellant states that the learned standing counsel for Sengottai Municipality produced copy of the resolution No.123 dated 31.05.2007 which addressed the concerns of the decree holders and that is why, the civil revision petition was closed. He added that due to typing mistake instead of saying the learned counsel for the respondent, it was wrongly typed as the learned counsel for the petitioners.



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6.We do not want to go into the said aspect. If a typing error crept in, it ought to have been got corrected soon thereafter by listing the case under the caption “for being mentioned”. Such a course of action was not taken. Be that as it may, the fact remains that the civil revision petition had to be closed only because of passing of the resolution No.123 dated 31.05.2007.

7.Having secured closure of the civil revision petition, it may not be have been fair on the part of Sengottai Municipality to withdraw the said resolution subsequently vide resolution No.302 dated 26.12.2012. The learned Single Judge in our view rightly held that it is open to a municipality to modify or cancel or recall any resolution earlier passed. This legal position cannot be doubted. Likewise, there is considerable force in the contention of the learned standing counsel for the municipality that a resolution as such is not maintainable to challenge. This position is well settled in view of the decision of the Hon'ble Division Bench of this Court in the decision reported in **2015 (2) CWC 366 (Shantha Srinivasan Vs. The Secretary to Government, Housing and Urban Development Department, Chennai).**



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8.Though no exception can be taken to these contentions, in the facts and circumstances of this case, it is too obvious that C.R.P.(NPD)(MD)No.312 of 2005 was closed only because of passing of the resolution No.123 dated 31.05.2007. In view of its subsequent withdrawal, the clock must be necessarily put back. That alone would sub-serve the ends of justice. There is something called fairness.

9.In this view of the matter, even while sustaining the order passed by the learned Single Judge, we set aside the order dated 17.07.2007 made in C.R.P.(NPD)(MD)No.312 of 2005 and restore the same to file of the Court so that it can be argued on merits.

10.This writ appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (M.J.R. J.)
25.03.2025

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