

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.872/2021 & WMP.No.957/2021

[Video Conferencing]

A.Sivasami

.. Petitioner

Versus

1.The District Collector
Salem Collectorate
Salem District.

2.The Commissioner
Panchayat Union Office,
Valapady, Salem 636 115.

3.The Block Development Officer
Panchayat Union Office,
Valapady, Salem 636 115.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents or their men, agents, servants or anybody claiming under them from proceeding with the unauthorised constructions of public toilet adjacent to the petitioner's property at S.No.170/2A, Thirumannur Village, total extent of 83 cents, Valapadi Taluk, Salem District.

For Petitioner : Mr.S.Manimaran

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2)Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents.
- (3)The petitioner, on an earlier occasion, filed WP.No.9604 of 2020 against the respondents 1 and 3, praying for issuance of a writ of mandamus, directing them to consider his representation dated 15.06.2020 and consequently, forbearing them from constructing a public toilet adjacent to his property in S.No.170/2A at Thirumannur Village, Salem District.
- (4)It is the case of the petitioner that his lands is S.No.170/2A of Thirumannur Village, admeasures to an extent of 83 cents and right adjacent to his land, a public toilet is being constructed, thereby blocking access to his agricultural lands and since the representation dated 15.06.2020 submitted in this regard, did not invoke any

response, the petitioner was constrained to file the said writ petition.

(5)A Single Bench of this Court, vide final order dated 24.07.2020, has disposed of the said writ petition, by directing the 1st respondent to consider and dispose of the petitioner's representation dated 15.06.2020 and shall take a decision in that regard within a period of two weeks from the date of receipt of a copy of the said order.

(6)The learned counsel for the petitioner would submit that in the light of the wilful disobedience and non-compliance of the above cited order, a pre-contempt legal notice dated 20.08.2020 has also been issued, for which also, there is no response and steps are being taken to number the contempt petition. The learned counsel has also drawn the attention of this Court to the Communication of the Divisional Engineer, Highways [Construction and Maintenance], Salem-4, addressed to the 2nd respondent herein dated 28.07.2020, bearing No.Encroachment/2020/A3 and would submit that in the light of the said communication, no permission was accorded by the Highways Department to put up a public toilet near KM25/2 and as such, the construction of the public toilet on the road margin is unsustainable and prays for appropriate orders.

(7)Per contra, Mr.R.Vijayakumar, learned Additional Government

Pleader appearing on behalf of the respondents would submit that since the petitioner is not clear about the nature of the land adjacent to his land in S.No.170/2A of Thirumannur Village and that apart, the petitioner has also invoked the Contempt jurisdiction of this Court, this writ petition is not maintainable.

(8) This Court has considered the rival submissions and also perused the materials placed before it.

(9) It is pertinent to point out at this juncture that nowadays, the officials are totally insensitive to the representations submitted to them and one such instance is the attitude exhibited by the 2nd respondent in not responding to the communication dated 28.07.2020 bearing No.Encroachment/2020/A3 sent by the Divisional Engineer, Highways, Construction and Maintenance, Salem-4 and therefore, the 2nd respondent, taking note of the same, shall send necessary response to the said official as to the non-granting of permission near the milestone KM25/2 of Panamarathupatti-Seshanchavadi road.

(10) Be that as it may, the petitioner has already filed a petition for contempt alleging wilful disobedience and non-compliance of the order dated 24.07.2020 made in WP.NO.9604 of 2020 and as such, this Court is of the view that the present exercise undertaken by the

petitioner in the form of this writ petition, is an unnecessary exercise.

(11)In the result, the writ petition is closed and the petitioner is at liberty to pursue the remedy under the provisions of the Contempt of Courts Act, in respect of the alleged wilful disobedience and non-compliance of the order dated 24.07.2020 made in WP.No.9604/2020. No costs. Consequently, the connected miscellaneous petition is also closed.

[MSNJ] [AANJ]
19.01.2021

AP

Internet:Yes

To

- 1.The District Collector
Salem Collectorate
Salem District.
- 2.The Commissioner
Panchayat Union Office,
Valapady, Salem 636 115.
- 3.The Block Development Officer
Panchayat Union Office,
Valapady, Salem 636 115.

WP.No.872/2021

M.SATHYANARAYANAN, J.,

AND

A.A.NAKKIRAN, J.,

AP



WP.No.872/2021

WEB COPY

19.01.2021