

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2012

CORAM:

THE HON'BLE MR.JUSTICE R.SUDHAKAR

Writ Petition No.20799 of 2012  
and  
M.P.No.1 of 2012

J.Keerthi

... Petitioner

Versus

1. The Commissioner,  
Ranipet Municipality,  
Ranipet, Vellore District.

2. The Chairman,  
Ranipet Municipality,  
Ranipet, Vellore District.

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus forbearing the respondents from reducing the petitioner's shop plinth area by dividing the said shop as two shops situated in Southern side of the Traffic Police Booth, New Bus Stand, Ranipet, Vellore District.

For Petitioner : Mr.C.Prakasam

For Respondents : Ms. V.M. Velumani,  
Spl.Govt. Pleader

**O R D E R**

Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Ms.V.M.Velumani, learned Special Government Pleader appearing for the respondents.

2. The prayer in the writ petition is to forbear the respondents from reducing the petitioner's shop plinth area by dividing the said shop as two shops situated in Southern side of the Traffic Police Booth, New Bus Stand, Ranipet, Vellore District.

3. The grievance of the petitioner is that the Respondent Municipality is trying to divide the petitioner's shop into two shops which will result in reducing the plinth area of the petitioner's shop. The learned counsel for respondents relies upon the resolution No.402 of the Municipality dated 27.07.2012. The learned counsel for the petitioner also relies upon Section 36(1) of the District Municipalities Act. It is relevant to extract Section 36(1) of the District Municipalities Act:-

"36. Power to suspend or cancel resolutions, etc., under Act.

(1) The State Government may, by order in writing-

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted; or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance or under colour of this Act, if, in their opinion;

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised; or

(b) such resolution, order, licence, permission or act is in excess of the power conferred by this Act or any other law; or

(c) the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that the State Government shall, before taking action under this section on any of the grounds referred to in clauses (a) and (b) give the authority or person concerned an opportunity for explanation:

Provided further that nothing in this sub-section shall enable the State Government to set aside any election which has been held."

4. Since the cause of action for the petitioner to approach this Court is the resolution No.402 of the Municipality dated 27.07.2012, the petitioner is given liberty to approach the State Government in terms of Section 36(1) of the District Municipalities Act.

5. The writ petition is disposed of with the above observations.  
No costs.

sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

gr

To

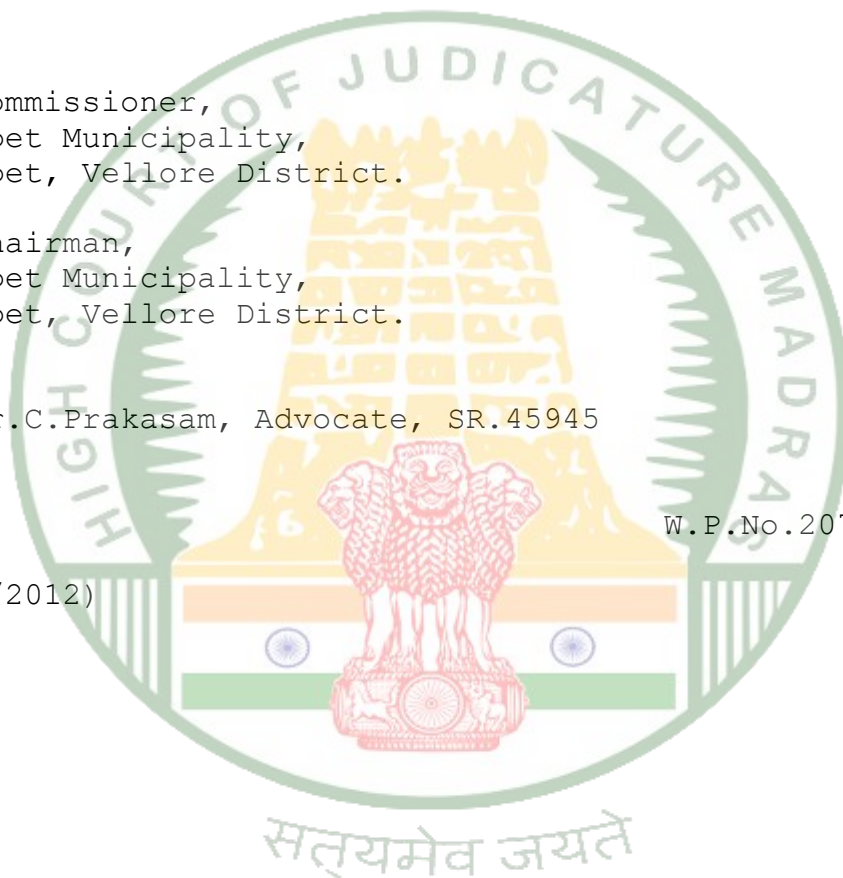
1. The Commissioner,  
Ranipet Municipality,  
Ranipet, Vellore District.

2. The Chairman,  
Ranipet Municipality,  
Ranipet, Vellore District.

1 CC to Mr.C.Prakasam, Advocate, SR.45945

W.P.No.20799 of 2012

RK(CO)  
SRA(01/08/2012)



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