



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE **S.VIMALA**

W.P (MD) No.22111 of 2016

Amarajothi : Petitioner

Vs.

1.The Executive Officer,
Vilathikulam Town Panchayat,
Vilathikulam, Thoothukudi District.

2.K.Mariammal : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 29.01.2016 and to take action with regard to the illegal construction made in Survey No.39/2, Vilathikulam Town Panchayat, Thoothukudi District by the second respondent.

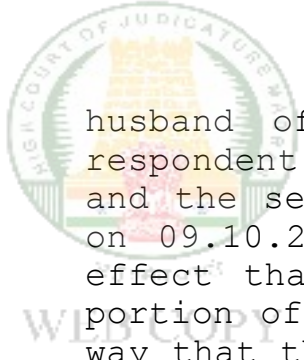
For Petitioner : Mr.V.Sasikumar
For Respondent No.1 : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 29.01.2016 and to take action with regard to the illegal construction made in Survey No.39/2, Vilathikulam Town Panchayat, Thoothukudi District by the second respondent.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who took notice for the first respondent. Having regard to the limited prayer sought for in this writ petition, notice to the second respondent is dispensed with.

3.The case of the petitioner is that the petitioner purchased the property in Survey No.39/2 of Vilathikulam Town Panchayat. The property, adjacent to her property, belongs to the second respondent and the second respondent applied for plan approval for constructing a house in her property, in the year, 2009. The



husband of the petitioner had made an objection. The first respondent issued summons both to the husband of the petitioner and the second respondent for enquiry on 25.09.2009. Thereafter, on 09.10.2009, the second respondent gave an undertaking to the effect that she will not lay windows and slabs on the northern portion of her house. But, she laid windows and slabs in such a way that those structures were found lying within the petitioner's land. Therefore, the petitioner sent a representation to the first respondent on 29.01.2016. As the same has not been considered, this writ petition has been filed.

4. A perusal of the representation sent by the petitioner to the first respondent, dated 29.01.2016, would go to show that the petitioner made allegation with regard to encroachment of her property, by the second respondent. If at all there is an encroachment, the remedy available to the petitioner is to approach the Civil Court. The disputed questions of fact cannot be decided in a writ petition. Therefore, this writ petition is dismissed, granting liberty to the petitioner to approach the Civil Court, for appropriate relief. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Executive Officer,
Vilathikulam Town Panchayat,
Vilathikulam,
Thoothukudi District.

+1 cc to MR.V.SASIKUMAR, Advocate SR.No.70409
+1 cc to MR.T.S.MOHAMED MOHIDEEN, Advocate SR.No.70743
+1 cc to Special Government Pleader Sr.No.70626

ORDER MADE IN
W.P (MD) No.22111 of 2016
18.11.2016

SMA/CM-MSA/15.02.2017:2P/5C