



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2017

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.P. [MD] .No.20342 of 2015

V.Palanisamy

: Petitioner

Vs.

1. The District Collector and the
Inspector of Panchayat,
Sivagangai District,
Sivagangai.

2. The Block Development Officer,
Singampunati Panchayat Union,
Sivagangai District.

3. The President,
M.Soorakudi Panchayat,
Thirupathur Taluk,
Sivagangai District.

4.Azhagammal

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to take appropriate action to prevent the illegal construction of the 4th respondent in Survey No.204/1 (New Survey No.204/32 of M.Soorakudi Village as per the Tamil Nadu Panchayat Building Rules, 1997 by considering the petitioner representation dated 27.10.2015 and to restore the common pathway in Survey No.204/1 (New Survey No.204/32)).

For Petitioner

: Mr.S.Murugan

For Respondents

: Mr.V.Muruganantham, AGP
for RR1 and 2

Ms.Pameline, for R3

Mr.C.Arul Vadivel @ Sekar for R4

**O R D E R***********

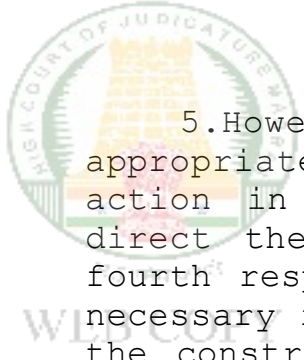
WEB COPY [Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Murugan, learned counsel appearing for the petitioner, Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 and 2, Ms.Pameline, learned counsel for the 3rd respondent and Mr.C.Arul Vadivel @ Sekar, learned counsel for the fourth respondent.

2.The petitioner filed this Writ Petition to issue appropriate direction to the official respondents to prevent the illegal construction put up by the fourth respondent by taking note of the petitioner's representation and thereby to restore the common pathway in Survey No.204/1 (New Survey No. 204 of 32).

3.When the Writ Petition was entertained by the Court, a direction was issued on 18.11.2015, directing the third respondent to file an action taken report. The third respondent accordingly has filed a report from which, it is seen that the third respondent has not been able to initiate any action and he would state that he is put to great prejudice on account of the on going dispute between petitioner and the fourth respondent and that the third respondent hails from a very respectful family and he has also suffered a lot at the hands of the Inspector of Police, S.V.Mangalam Police Station and even in his presence, the husband of the fourth respondent abused the third respondent in filthy language and no action was initiated.

4.The case of the fourth respondent is that the land on which he has put up construction is a patta land. This contention is disputed by contending that there is already a challenge to grant of patta in favour of the fourth respondent. The fourth respondent refers to civil proceedings, asserting that the land in question is a patta land. Even in such circumstances without obtaining building plan approval, the fourth respondent cannot put up construction. Therefore the panchayat, which may be the appropriate authority to sanction a plan for putting up residential building in the property has been a mute spectator to the illegalities and unable to take any action. However, as of now the President of the Panchayat is not in office and Executive Officer has been managing the affairs of the Panchayat. The Executive Officer therefore should act in a proper manner without being any manner influenced by the conduct of the petitioner and the fourth respondent or the personal disputes between themselves, which he has not done till date.



5. However considering the past antecedents, we deem it appropriate that the second respondent should initiate appropriate action in the matter in accordance with law. Accordingly, we direct the second respondent to issue show cause notice to the fourth respondent, directing the fourth respondent to produce the necessary records to show that she is entitled to the property and the construction put up by her in accordance with the sanctioned plan. On receipt of the reply, the second respondent is directed to pass appropriate orders on merits and in accordance with law. While considering the representation of the fourth respondent, the second respondent shall also take the views of the petitioner as well as the third respondent Panchayat, by issuing prior notice to them.

6. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector and the
Inspector of Panchayat,
Sivagangai District,
Sivagangai.
2. The Block Development Officer,
Singampunati Panchayat Union,
Sivagangai District.

+1cc to Mr.S.Murugaiyan, Advocate Sr.No.54038
+1cc to Mr.C.Arul Vadivel @ Sekar, Advocate Sr.No.53709
+1cc to Spl.Government Pleader Sr.No.54203

arul

vb/jc/04.05.2017/3p/6c

ORDER MADE IN
W.P. [MD] .No.20342 of 2015
24.04.2017