



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13 .07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 4958 of 2017

and

W.M.P. (MD) Nos.3994 and 3995 of 2017

K.Nageswari

... Petitioner

vs.

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The Block Development Officer (Village Panchayat)
Valliyoar Panchayat Union,
Valliyoar, Tirunelveli District
3. The Assistant Director (Panchayat),
Tirunelveli.
4. Chidambarapuram - Jacobpuram Village Panchayat,
Represent by its Secretart,
Via South Karungulam,
Tirunelveli.

5.R.Ganesan.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 and 4 restraining the 5th respondent from proceeding with the construction (without permission) of building by the 5th respondent in Survey No.83/2A, Palavoor part II Village, Radhapuram Taluk, Tirunelveli District.

For Petitioner	: M/s.J.Ananthavalli
For Respondents	: Mr.M.Govindan, Spl. Govt. Pleader for R1 & R3 Mr.M.Murugan for R 2 Mr.Aayiram K.Selvakumar for R4 Mr.P.Ramaswami for R5



O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

This writ petition has been filed for directing the respondents 2 to 4 to restrain the fifth respondent from proceeding with the construction of building in S.No.83/2A, Palavoor part II Village, Radhapuram Taluk, Tirunelveli District.

2.The petitioner is residing in the building comprised in S.No.83/2B4 covered in patta No.358 Pazhavoot Part-II Village, Radhapuram Taluk, Tirunelveli District. Fifth respondent is the owner of the property comprised in S.No.83/2A. It is lying adjacent to the writ petitioner's property. There is a civil dispute. The writ petitioner had filed O.S.No.221/15 before the Principal District Munsif, Valliyoor against the fifth respondent herein.

3.It is the contention of the writ petitioner that the fifth respondent is putting up construction without obtaining any prior building permission. She had earlier filed W.P.(MD) No.9009 of 2015 before this Court. Similarly, the fifth respondent herein filed W.P.(MD) No.15612 of 2015 questioning the action taken by the Panchayat President. W.P.(MD) No.15612 of 2015 filed by the fifth respondent was allowed since the show cause notice as well as demolition notice were issued simultaneously. Since W.P.(MD) No.15612 was allowed, relief was declined in W.P.(MD) No.9009 of 2015. This Court, while passing a common order dated 24 January 2017, directed the fifth respondent herein to make proper representation to the concerned authority within a period of one month.

4.Heard the learned counsel for the writ petitioner as well as the respondents.

5.The learned counsel appearing for the fifth respondent claimed that he had already submitted his application. But, there was no response from the fourth respondent and therefore, he is entitled to claim the benefit of the deeming provision. This contention of the fifth respondent cannot be accepted. To avail the benefit of the deeming provision, one's construction must conform to the planning norms in full. One cannot submit an application, wait for a period of one month and thereafter put up an illegal construction by claiming that approval should be deemed to have been granted.

6.In these circumstances, we dispose of this writ petition by directing the fourth respondent to take decision in the matter within four weeks from the date of receipt of a copy of this order. The writ petitioner has given a representation to the



first and third respondents. He is permitted to submit a comprehensive representation to the fourth respondent. The fourth respondent is permitted to take action thereon, within four weeks from the date of receipt of such representation.

7. The learned counsel for the fifth respondent submitted that he had already submitted his application for building approval to the fourth respondent. The fourth respondent shall take a decision with regard to grant or rejection of approval for the construction put up by the fifth respondent within four weeks from the date of receipt of a copy of this order. Based on the said decision taken by the fourth respondent, he shall take further action in the matter with respect to the representation given by the writ petitioner herein.

8. The writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The Block Development Officer (Village Panchayat)
Valliyoor Panchayat Union,
Valliyoor, Tirunelveli District
3. The Assistant Director (Panchayat),
Tirunelveli.
4. Chidambarapuram - Jacobpuram Village Panchayat,
Represent by its Secretart,
Via South Karungulam,
Tirunelveli.

+1cc to M/s.J.Ananthavalli, Advocate SR.No.65348
+1cc to Mr. P.Ramaswami, Advocate SR.NO.65447
+1cc to The Spl.Government pleader Sr.No.66124
ARUL/SKM

VB/SKN/RSK/SAR1/25.07.2017/3P/8C