

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2018

CORAM

THE HON'BLE Mr. JUSTICE M.VENUGOPAL
and
THE HON'BLE Mrs. JUSTICE S.RAMATHILAGAM

W.P.No.23828 of 2018 and
W.M.P.No.27760 of 2018

M.Mallika

.. Petitioner

Vs

1.The District Collector,
Sathuvachari, Vellore,
Tamil Nadu - 632 012.

2.The Block Development Officer
Block Development Office
Walajapet, Tamil Nadu 632 513.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF MANDAMUS directing the Respondents 1 and 2 herein to consider the representation of the Petitioner dated 30.07.2018 and consequently to demolish the unauthorised structure illegally being constructed in Vannivedu bearing Survey Number S.No.700/1C2 V.C.Motoor Village, Walajapet, Vellore District.

For Petitioner : Mr.Gokul Vasudev

For Respondents : Mr.J.Pothiraj
Special Government Pleader

O R D E R

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

Heard the Learned Counsel for the Petitioner and Mr.J.Pothiraj, Learned Special Government Pleader for the Respondents. No counter is filed on behalf of the Respondents.

2.According to the Petitioner, her husband T.M.Mani had erected a commercial complex in 700/IC3 V.C.Motoor Village, Walajapet, Vellore District and is managing an automobile shop viz., Ganesh Automobiles. The said commercial building stands in my husband's name and the land adjacent to the commercial

complex belongs to her. Both the lands abut the National Highways. Few persons claiming to be villagers of V.C.Motoor, Walajapet, Vellore District had illegally encroached upon the lands belonging to the Petitioner and her husband and had started construction of a temple without any authorisation/approval/permission. Her husband and herself are the lawful owners of the property and all the taxes and dues were paid without any default.

3.The grievance of the Petitioner is that the temple in question is being constructed in a haphazard manner and the construction materials are left lying in the National Highway, which is a cause for deep concern, because of the reason that the unattended construction materials left there might cause accidents. In short, the temple complex itself is constructed without any Planning Permission and authorisation and is not subjected to any audit by the revenue officials. The hasty construction puts the lives of construction workers as well as the general public in danger.

4.The Petitioner had addressed numerous representations to the official Respondents about the activities of men who are putting up the unauthorised construction and in the said representations, a request was made to take immediate action to restrain the said persons from carrying on with the construction activities and also to demolish the constructed portion of the temple so as to avert any disaster that may happen to the general public. All the fervent endeavours made by the Petitioner's husband and herself to stop the construction were thwarted by the said persons.

5.The prime grievance of the Petitioner is that the construction is being carried on unchecked and is not subject to any statutory safeguards. The Petitioner made a representation to the Office of the District Superintendent of Police, through letter dated 02.07.2018, elaborately explaining the acts committed by those men and sought for immediate action for stopping the unlawful construction and to consequently demolish it in accordance with Law. Also, another representation was made by the Petitioner on 30.07.2018 to the official Respondents herein. No action has been taken till date despite the urgency involved in the matter. Hence, the Petitioner issued a legal notice dated 03.07.2018 to the 1st Respondent and the 2nd Respondent calling upon them to demolish the illegal construction of the temple forthwith. A receipt of said legal notice was acknowledged by the Respondents. The 1st Respondent, in response to the legal notice of the Petitioner dated 03.07.2018, sent a communication dated 16.07.2018 to the 2nd Respondent/Block Development Officer, Block Development Office, Walajapet, Tamil Nadu issuing direction to take necessary action

and to report compliance in accordance with Law. Since no action has been taken in the subject matter in issue, the Petitioner has filed the present Writ Petition.

6. At this stage, the Learned Special Government Pleader for the Respondents fairly submits that the Respondents will look into the representation of the Petitioner dated 30.07.2018 and will dispose of the same within a time frame to be determined by this Court.

7. In view of the fact that the Petitioner's representation dated 30.07.2018 addressed to the Respondents 1 and 2 have not met with any positive response from the concerned Respondents, at this stage, this Court deems it fit and proper in directing the Respondents 1 and 2 to look into the representation of the Petitioner, in an objective, fair, unbiased, transparent and dispassionate manner and to dispose of the same, by passing a speaking order on merits, within a period of four weeks from the date of receipt of copy of this order. Before passing the final orders in the subject matter in issue, it is open to the Respondents to inspect the subject property and to apprise themselves subjectively as to whether there has been an Encroachment by way of constructing the temple by the concerned persons. The Respondents 1 and 2, at the time of conducting enquiry, is to afford an opportunity to the Petitioner and others concerned to put forward their views/grievances in the subject matter in issue. If the Respondents 1 and 2 come to a definite conclusion that there has been an Encroachment, by way of putting up the temple, which is an unauthorised construction, then, they are at liberty to take necessary positive steps in removing the Encroachment in question and to restore the original position. Before parting with the case, this Court also directs the Respondents 1 and 2 to provide an opportunity to the concerned persons, who are putting up the unauthorised construction and to hear them, if need be/situation so warrants.

8. With the aforesaid observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

Sgl

To

1. The District Collector,
Sathuvachari, Vellore, Tamil Nadu - 632 012.

2.The Block Development Officer
Block Development Office
Walajapet, Tamil Nadu 632 513.

3.The Government Advocate,
High Court, Madras.

+1cc to Mr.Gokulavasudev, Advocate SR.No.63521

+1cc to Government Pleader SR.No.63494

W.P.No.23828 of 2018

GMV (26/09/2018)



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