

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 18.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.2481 of 2020
and W.M.P.No.2879 of 2020

Erra Malleswari

Petitioner

versus

- 1.The Secretary,
Town and Country Planning,
Puducherry.
- 2.The Senior Town Planning Officer,
Yanam.
- 3.The Regional Administrative Officer,
The Chairman, Yanam Planning Authority,
Yanam.
- 4.The Member Secretary,
Yanam Planning Authority,
Yanam.
- 5.Erra Lakshmanarao
- 6.Erra Subramanyeswararao
- 7.Malladi Krishnarao
- 8.Seru Sriramkumar
- 9.Nukala Venkata
Satyanarayana Murthy

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the order passed by the fourth respondent his proceedings dated 25.11.2019 and subsequently 02.12.2019 based on the representation given by the petitioner on 21.11.2019 in accordance with law.

For Petitioner : Mr.M.Velmurugan
For Respondent Nos.1 to 4 : Mr.R.Stalin Abimanyu
Government Advocate (Puducherry)

* * * * *

O R D E R

[Order of this Court was made by R.SUBBIAH,J.]

The petitioner has come up with the present Writ Petition for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to consider the orders passed by the fourth respondent, by his proceedings dated 25.11.2019 and 02.12.2019, based on the representation of the petitioner dated 21.11.2019.

2. It is the case of the petitioner that the subject property belonging to the petitioner's grandfather and her father bequeathed his share in the property. After the demise of petitioner's father, they are in joint possession of the schedule mentioned property. While so, the male members of the family were administering the property for themselves and also for other co-owners. Subsequently, some misunderstanding arose between the legal representatives, which resulted in filing of O.S.No.30 of 2001 before the said Sub Judge, Yanam, for the relief of partition, by the respondents 5 and 6, who are the brothers of the petitioner. The said suit was partially decreed, as per which, the petitioner is entitled to 1/18th share in the schedule mentioned property. Aggrieved by the same, an appeal was filed by the petitioner in A.S.No.38 of 2018 before the learned Principal District Judge, Pondicherry and the same is pending. In such a situation, respondents 5 and 6 had sold the property to the respondents 7 to 9 and now, they are putting up a construction in the said property, without any planning approval. In this regard, the petitioner made representation dated 21.11.2019 to the respondents 1 to 3 not to issue patta and to grant approval to the respondents 7 to 9. However, the fourth respondent had sent a reply dated 25.11.2019 to stop all works immediately. Subsequently, on 02.12.2019, the fourth respondent sent a letter to the petitioner stating that her proposal will be processed only after necessary legal opinion is obtained. Hence, the petitioner has approached this Court by way of filing the present Writ Petition.

3. Today, when the matter is taken up for consideration, the learned Government Advocate (Puducherry) appearing on behalf of the respondents 1 to 4 submitted that the second respondent is the competent authority to consider the representation of the petitioner.

4. In view of the above submission made by the learned Government Advocate (Puducherry) appearing on behalf of the respondents 1 to 4, this Court directs the petitioner to approach the second respondent by way of filing a fresh representation, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the second respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of

personal hearing to the petitioner as well as to the respondents 7 to 9, within a period of six weeks thereafter.

5. With the above observations and direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sri
To

- 1.The Secretary,
Town and Country Planning,
Puducherry.
- 2.The Senior Town Planning Officer,
Yanam.
- 3.The Regional Administrative Officer,
The Chairman, Yanam Planning Authority,
Yanam.
- 4.The Member Secretary,
Yanam Planning Authority,
Yanam.

+1cc to Mr.M.Velmurugan , Advocate SR.No. 13572
+1 cc to Government Pleader Sr.No. 13896

W.P.No.2481 of 2020
and W.M.P.No.2879 of 2020
A.SK(09/03/2020)

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