

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.04.2021

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI
W.P. No. 20965 of 2018
&
W.M.P. No. 24614 of 2018

Mrs. Saburan Jameela

..Petitioner

Vs.

State rep. by its

1. The District Collector,
Thiruvarur District.
2. The Revenue Divisional Officer,
Mannarkudi, Thiruvarur District.
3. The Tahsildar,
Thiruthuraipoondi,
Thiruvarur District.
4. The Executive Officer,
Special Grade Panchayat,
Muthupettai,
Thiruvarur District.

...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 4th respondent dated 24.07.2018 Na.Ka.No. 991/2018/A1 and quash the same and further direct the respondents forbearing or evicting or dispossessing the petitioner from No.41, comprised in Survey No. 243/0 situated at Thuraikkadu Village, Muthupettai, Thiruvarur District.

For Petitioner :: Mr.G. Mohammed Aseef
For Respondents:: Mr.S.Kamalesh Kannan,
Govt. Advocate

O R D E R

(Order of the Court was made by N. KIRUBAKARAN,J.)

The petitioner has been in possession and enjoyment of the property bearing Door No.41, comprised in Survey No. 243/0 measuring an extent of 2.35 Ares at Arasakulakarai, Muthupettai,

Thiruvavarur District. The petitioner had constructed superstructure thereon after getting due approval from the 4th respondent by proceedings dated 31.07.2013. The property has been assessed by the revenue and property tax has been collected from the petitioner. When things stand so, the impugned notice has been issued by the 4th respondent on 24.07.2018 stating that the petitioner has encroached upon the water body comprised in S.No. 243/0 and put up a building. The said notice is under challenge before this Court.

2. Heard Mr.G.Mohammed Aseef, learned counsel for the petitioner and Mr.S.Kamalesh Kannan, learned Government Advocate appearing for the respondents.

3. It is clear from the records that the petitioner had constructed the superstructure after getting the approved plan from the local body on 31.07.2013. When the building has been constructed after getting approved plan, it is not known as to how the respondents could contend that it has been constructed on a water body. The respondents should have inspected the property and measured the property of the petitioner as to whether the building has been located within the property of the petitioner or on the water body. If the petitioner has encroached upon the water body, to what extent, the encroachment has been made and all the details have to be given.

4. Hence, the impugned order is quashed and to verify whether encroachment has been made, the 4th respondent along with the 3rd respondent is directed to inspect the property after giving notice to the petitioner and measure the property and if there is encroachment, giving the details, shall issue fresh show cause notice and thereafter proceed in accordance with law. The above exercise has to be completed within a period of eight weeks from the date of receipt of a copy of this order. A report regarding the inspection conducted shall also be filed before this Court failing which the 3rd and 4th respondents shall appear before this Court.

5. The writ petition is disposed of with the above directions. No costs.

6. For reporting compliance, post the matter after eight weeks.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

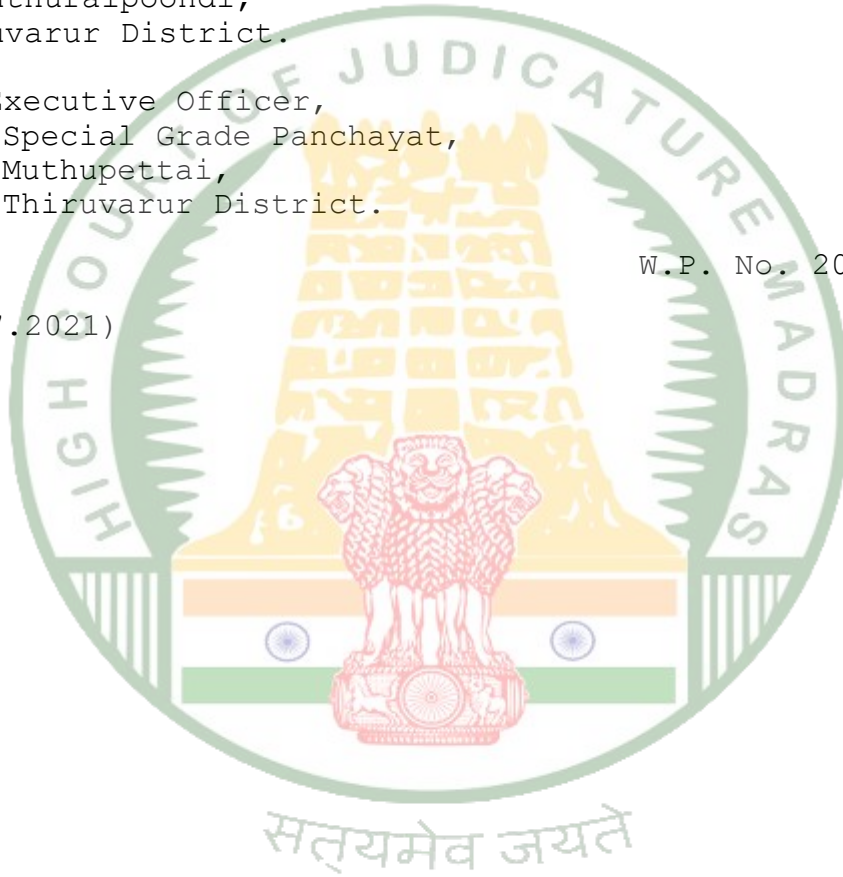
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To

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A.SK(06.07.2021)



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