



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.06.2021**

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.P.[MD]No.9450 of 2021

and

W.M.P.[MD]No.7172 of 2021

T.Thanga Durai

... Petitioner

Vs.

- 1.The District Collector,
(Inspector of Panchayat),
Thoothukudi District,
Thoothukudi.
- 2.The Block Development Office (V.P.),
Alwarthirunagiri Union Panchayat,
Thenthirupperai, Thoothukudi District.
- 3.The President / Executive Authority,
Kattaarimangalam Village Panchayat,
Alwarthirunagari Union Panchayat,
Thenthirupperai, Thoothukudi District.
- 4.The Tahsildhar,
Sathankulam Taluk Office,
Sathankulam Taluk,
Thoothukudi District - 628 704.

5.P.Thangaperumal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second respondent to invoke Rule 34 of the Panchayat Building Rules, 1997 and forbear the fifth respondent from continuing the construction work at S.No.1189/1A1A1A and S.No.1189/65 at Kattarimangalam Village, Arivanmozhi, Santhankulam Taluk, Thoothukudi District.

For Petitioner : Mr.P.G.Thiyagu

For Respondents 1 to 4 : Mr.A.K.Manickam

Standing Counsel for Government

O R D E R

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



With the consent on either side, the Writ Petition itself is taken up for final disposal.

2. Heard Mr.P.G.Thiyagu, learned Counsel appearing for the petitioner and Mr.A.K.Manickam, learned Standing Counsel for Government appearing for respondents 1 to 4.

3. In the light of the directions we propose to issue in this writ petition, notice to the fifth respondent is dispensed with.

4. The petitioner has filed a statutory appeal under Rule 29(2) and 34 of the Tamil Nadu Panchayat Building Rules, 1997, before the first respondent, challenging the correctness of the building plan approval granted to the fifth respondent dated 28.02.2020 in Approval No.03/2019 - 2020. The appeal was sent by speed post on 15.03.2020 and as per the tracking information available, the appeal has been received in the office of the first respondent / District Collector. The petitioner's grievance is that till date, the appeal has not been taken for consideration. To be noted, the petitioner / appellant has also sought for an interim relief, pending disposal of the appeal.

5. We have perused the building plan approval granted to the fifth respondent dated 28.02.2020. We find that the building plan approval has expired on 27.02.2021. Therefore, without an extension of the approval, construction cannot be continued. In any event, this can be decided by the first respondent / appellate authority, after notice to the petitioner and the fifth respondent.

6. We are conscious of the fact that the District Collector has several other important assignments as on date because of the pandemic situation. Nevertheless, since the appeal is a statutory appeal, the District Collector has to consider the same. Due to paucity of time, if the main appeal itself cannot be considered, the District Collector can consider the prayer for interim relief made by the writ petitioner in the appeal petition.

7. In the light of the above, we direct the District Collector, Thoothukudi District, to consider the petitioner's appeal petition dated 15.03.2020 filed against Rule 29(2) and 34 of the Tamil Nadu Panchayat Building Rules, 1997, challenging an order of approval dated 28.02.2020, granted to the fourth respondent as expeditiously as possible, preferably within four [4] weeks from the date of receipt of a copy of this order. Since it appears that construction activities are going on, the District Collector is requested to consider the prayer for interim relief made by the petitioner in the appeal petition within ten [10] days from the date of receipt of a copy of this order, after notices to the petitioner as well as the fifth respondent.



6. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

MR

To

1. The District Collector,
(Inspector of Panchayat),
Thoothukudi District, Thoothukudi.
2. The Block Development Office (V.P.),
Alwarthirunagiri Union Panchayat,
Thenthirupperai, Thoothukudi District.
3. The Tahsildhar,
Sathankulam Taluk Office,
Sathankulam Taluk,
Thoothukudi District - 628 704.

+1 CC to M/s.A.K.MANIKKAM, Advocate (SR-18980[F] dated 08/06/2021)

+1 CC to M/s.SPL GP (SR-19030[F] dated 08/06/2021)

ORDER MADE IN
W.P. [MD]No.9450 of 2021
04.06.2021

GS (17.06.2021) 3P 6C