



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.17833 of 2021

Swarna Sudha

... Petitioner

-Vs-

The District Collector,
Kanniyakumari District,
At Nagercoil.

... Respondent

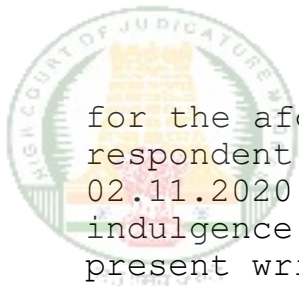
Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to grant permission to petitioner to bring out the soil from the petitioner's property while levelling the property as fit for constructing a house in admeasuring 10.90 cents comprised in Resurvey No.104/5 of Kulappuram Village, Killiyur Taluk, Kanniyakumari District within a stipulated period that may be fixed by this Court.

For Petitioner	: Mr.S.Sivakumar
For Respondent	: Mr.D.Ghandiraj
	Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondent to grant permission to the petitioner to bring out the soil from the petitioner's property while levelling the property as fit for constructing a house in admeasuring 10.90 cents comprised in Resurvey No.104/5 of Kulappuram Village, Killiyur Taluk, Kanniyakumari District within a stipulated period that may be fixed by this Court.

2.It is the case of the petitioner that the petitioner is having property at Resurvey No. 104/5 to the extent of 10.90 cents at Kulappuram Village, Killiyir Taluk, Kanniyakumari District. According to the petitioner, it is the house site and it is eight feet above the road level. Therefore, the said land has to be made ready for the purpose of constructing dwelling house for the petitioner's use. For the said purpose, the soil of the property has to be excavated to some extent. Then only, construction can be made after getting necessary permission from the local authorities. Therefore, in order to remove the earth from the property concerned



for the aforesaid purpose, the petitioner wanted permission from the respondent and in this regard, he has given a representation dated 02.11.2020 and in order to consider the same, the petitioner seeks indulgence of this Court to issue a direction by way of filing the present writ petition.

WEB COPY

3.Heard Mr.S.Sivakumar, learned counsel appearing for the petitioner, who having reiterated the aforesaid would seek indulgence of this Court.

4.Heard, Mr.D.Ghandiraj, learned Government Advocate appearing for the respondent, who, on instructions, would submit that, the neighbouring land owner is objecting to the proposal for excavating the earth from the petitioner's land for whatever purpose and therefore, the petitioner as well as the objecting parties are to be heard. Then only, the decision can be taken in this regard.

5.I have heard the learned counsel appearing for the petitioner as well as the respondent and having regard to the said factual matrix projected by both the parties, this Court is inclined to pass the following order:

that there shall be a direction to the respondent to consider the representation of the petitioner dated 02.11.2020 and decide the same on merits in accordance with law, after giving an opportunity of being heard to the petitioner as well as the rival claimants or objectors from neighbouring lands and accordingly pass orders within a period of four (4) weeks from the date of receipt of a copy of this order.

6.With these directions, the present writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

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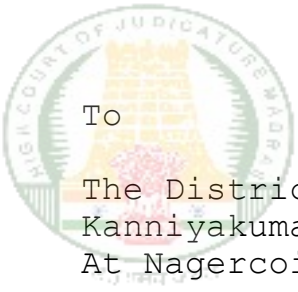
/ /2021

Sub Assistant Registrar(CS)

SM

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.



To

The District Collector,
Kanniyakumari District,
At Nagercoil.

+1 CC to M/s.SPL.GP (SR-31008[F] dated 04/10/2021)

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-30836[F] dated 01/10/2021)

W.P. (MD) No.17833 of 2021
01.10.2021

VR (CO)

KB (18.11.2021) 3P 4C