



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.22534 of 2021

WEB COPY

Susheela

... Petitioner

vs.

1.The Director of Municipal Administration,
Kuralagam, Chennai.

2.The Executive Officer,
First Grade Town Panchayat,
V.Puthur Village,
Villathikulam Taluk,
Tuticorin District-628 905.

... Respondents

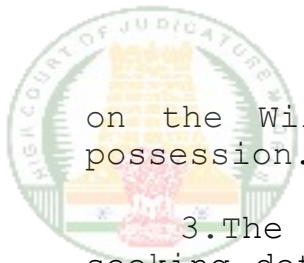
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in A.T.M.K.No.34/2021 on the file of the second respondent and to quash the same as illegal and consequently directing the second respondent to issue a planning permission to the petitioner to put up construction in New S.Nos.57/1A and 57/1B an extent of 2 cents at V.Pudur Village, Thoothukudi District as per plan submitted to the second respondent.

For Petitioner : Mr.M.V.Venkatashesan
For Respondents : Mr.J.John Rajadurai
Government Advocate (for R1)
Mr.T.Amjad Khan (for R2)

O R D E R

The writ petition has been filed in the nature of Certiorarified Mandamus, seeking to call for the records with respect to A.T.M.K.No.34/2021 issued by the second respondent and to interfere with the same and consequently to direct the second respondent to grant planning permission to the petitioner to put up construction in New S.Nos.57/1A and 57/1B, measuring 2 cents in V.Pudur Village, Thoothukudi District.

2.The petitioner had given a plan with respect to the nature of construction that she intended to put up in those 2 cents of land. The property originally measured about 8 cents. The husband of the petitioner had settled 2 cents in favour of the petitioner herein. Her husband obtained the 2 cents from his father. In the meanwhile, there was also another suit, which was with respect to a Will executed by the petitioner's husband's grandmother, Ponnammal in the year 1992. She had expired in the year 2004. The plaintiffs therein, claimed 6 cents of the lands. Apart from placing reliance



on the Will, they had also included the relief of recovery of possession.

3.The second respondent had issued a simple communication seeking details of that particular suit from the petitioner herein. Once that notice had been received, a duty is cast on the petitioner to go to the second respondent once again and disclose all the facts, disclose the plaint, disclose the defence taken and disclose the right of the petitioner herein to actually put up construction and also give trace the title of the petitioner herein. Instead of that the petitioner had come to this Court. This Court can never substitute itself to the second respondent and direct planning permission to be given. It all depends on the subjecting satisfaction taken by the second respondent on the basis of the complaint given by the individuals who had instituted the suit and examining such documents and find out whether the petitioner is entitled for planning permission.

4.I am confident that the second respondent would take a considered decision, if all the relevant records are placed before the said authority. As on date, the authority has not been placed with details of the entire records. An obligation is placed on the petitioner herein to go back to the second respondent answer to the notice, give the necessary details for participating in the enquiry and thereafter, the second respondent may pass an order in accordance with the rules also after hearing the individuals, who had given a complaint to the second respondent objecting to grant planning permission.

5.Recording as above, the Writ Petition at this stage is premature and hence, it is dismissed.

6.Registry, may on proper acknowledgment and undertaking given by the petitioner/learned counsel for the petitioner, return back the original plan, which has been filed along with the writ petition and however, replace it with the copy of the same attested as true copy by the petitioner.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sj1

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



To

1. The Director of Municipal Administration,
Kuralagam, Chennai.

2. The Section Officer, E.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPL.GP (SR-39723[F] dated 21/12/2021)

+1 CC to M/s.M.V.VENKATASESHAN, Advocate (SR-39538[F] dated
20/12/2021)

W.P. (MD) No.22534 of 2021
20.12.2021

RD(31.12.2021) 3P 5C