



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.A.NO.1517 OF 2022

AGAINST

WP.26509/2021

1. M.Vallinayagam
2. V.Rajam
3. S.Muruganantham
4. P.Selvaraj
5. S.Suseela
6. P.Chinnasamy
7. J.Paranjothi Ramalingam

.. Appellants/
3rd Petitioner

vs

1. S.Srimathy

... 1st Respondent/Petitioner

2. The Executive Officer,
No.2, Gudalur Town Panchayat,
Nehru Nagar, Samychettipalayam Post,
Coimbatore 641 047.

.. 2nd Respondent/
Respondent

Prayer:

Appeal filed under Clause 15 of the Letters Patent against the order dated 13.12.2021 passed in W.P.No.26509 of 2021 on the file of this Court.

Prayer in W.P.No.26509 of 2021:

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondent to grant approval and permission to construct building in petitioner property bearing No. 30 in Survey No. 74/ 2 as per Patta No. 583 Survey No. 74/ 2R Sri Ananda Nagar Layput in LP / C (CN) No. 162/ 78 based on the application



submitted by the petitioner under Rule 4 (1) of the Tamil Nadu Panchayat Building Rules 1997.

WEB COPY

For the Appellants : Mr.A.E.Ravichandran
For the Respondents : Mr.P.Muthukumar
State Govt. Pleader for R-2

JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

The writ appeal has been filed by persons who were not parties to the writ petition. It is to challenge the directions given in the order impugned herein.

2. In view of the above, we are first quoting the directions given by the learned Single Judge and challenged by the writ appellants, which are quoted hereunder:-

14. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That there shall be a direction to the respondent to immediately take action to survey the land in question belongs to the petitioner as well as the other land which is claimed to be the public property where there is an alleged road runs. Such a survey shall be completed with the cooperation of the petitioner and the Survey Department within a period of four weeks from the date of receipt of a copy of this order. Once the survey is completed after getting a report in this regard with map or sketch from the Survey Department, accordingly after identifying the property belongs to the petitioner, his application for grant of building permission shall be processed and final order in the application on merits shall be passed by the respondent within a period four weeks thereafter.

(ii) The compliance report in this regard shall be filed before this Court by the respondent / Executive Officer in person, for which, post the matter on 21.03.2022."



3. The challenge to the directions aforesaid has been made on the ground that the approval of the plan cannot be on the land belonging to the pathway. The challenge is despite the fact that directions by the learned Single Judge are to cause a survey to find whether it is land of pathway to settle the controversy raised by the writ appellants.

4. A direction of survey has been given by the learned Single Judge and it is only after the report that further process would be undertaken. It is submitted that the report has already been submitted. If it is adverse to the writ appellants, they would have challenged it by taking appropriate remedy. It cannot be in this appeal because it was not subject matter of writ petition. It seems that without taking the remedy against the report, an appropriate order passed by the learned Single Judge has been challenged. It would not be permissible and otherwise, we do not find any error or illegality in the order passed by the learned Single Judge issuing directions for causing survey and to submit a report.

In the light of the aforesaid, the writ appeal is dismissed finding no merit. However, if the writ appellants are aggrieved by the report or any further action by the second respondent, they would be at liberty take the remedy as permissible under law. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sra

To:

The Executive Officer,
No.2, Gudalur Town Panchayat,
Nehru Nagar, Samychettipalayam Post,
Coimbatore 641 047.

+1cc to Mr.A.E.Ravichandran, Advocate, S.R.No.40269
+1cc to the Government Pleader, S.R.No.40346

W.A.No.1517 of 2022

SKM(CO)
PM/06/07/2022