



WEB COPY



W.P.No.31336 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.31336 of 2022

Stella Josphin

...Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Tiruvallur District, Master Plan Complex,
NH-205, Tiruvallur – 602 001.
- 2.The Chief Executive officer,
Chennai Metropolitan Development Authority,
Rep. By its Chairman, No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.
- 3.The Commissioner,
Villivakkam Panchayat Union,
Ambattur, Chennai – 600 053.
- 4.The Panchayat Union President,
Vellanoor Panchayat,
Villivakkam Panchayat Union.
- 5.Promax Enterprises Pvt Ltd.,
Rep. By its Managing Director, Mr.P.Murali,
S/o. Pandurangan, 617, Aarikkampedu Village,
Vellanoor Post, Tiruvallur District.

..Respondents



W.P.No.31336 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus, directing the respondents 1 to 4 to take action against the 5th respondent based on the final notice issued by the 3rd respondent in Na.Ka.No.2029/2020/A3 dated 10.06.2022 and demolish the unauthorised construction put up by the 5th respondent in the petitioner land in Survey No.617/1B4, 617/1L2, 617/1M1.

For Petitioner : Mr.K.Sathish Kumar

For Respondents : Mr.Vadivelu Deenadayalan

Additional Government Pleader for R1

Mr.C.N.Vinobha for R2

Mr.K.V.Sajeev Kumar for R3

Mr.D.Gopal, Government Advocate for R4

Mr.M.Jaikumar for R5

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

The prayer in the Writ Petition reads as follows:-

directing the respondents 1 to 4 to take action against the 5th respondent based on the final notice issued by the 3rd respondent in Na.Ka.No.2029/2020/A3 dated 10.06.2022 and demolish the unauthorised construction put up by the 5th respondent in the petitioner land in Survey No.617/1B4, 617/1L2, 617/1M1.



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2.A notice dated 10.06.2022 was issued by the 3rd respondent, seeking disconnectin of the electricity connection to the building that has been put up by the 5th respondent and to take further action under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act and for removal of encroachment as the construction has been put up over a water body. This was a subject matter of challenge in W.P.No.16259 of 2022 at the instance of the 5th respondent herein.

3.In the said Writ Petition, a status report was filed by the Commissioner, Villivakkam Panchayat Union stating that no planning permission has been granted. Since the status report disclosed that there was no planning permission, when we queried the counsel as to the genuineness of the documents that were placed before us claiming to be planning permission granted by the Panchayat, the learned counsel for the 5th respondent herein, the petitioner in W.P.No.16259 of 2022 sought for permission to withdraw the Writ Petition and hence, the Writ Petition was dismissed as withdrawn on 12.10.2022. The present Writ Petition has been filed seeking implementation of the notices dated 10.06.2022.



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3.The learned counsel for the 5th respondent herein / petitioner in the earlier proceedings, who withdrew the Writ Petition would submit that the 5th respondent herein has preferred a Special Leave Petition in SLP(C).No.20732 of 2022 as against the order, dismissing the Writ Petition as withdrawn. He would also request us to await the disposal of the said Special Leave Petition. We do not think that such a request could be accepted. The earlier Writ Petition was withdrawn by the very same counsel. Hence, there is no prohibition in law for the Municipality to proceed with the enforcement action. Therefore, this Writ Petition is allowed, directing the Panchayat to proceed with the enforcement action pursuant to the notice dated 10.06.2022. No costs. The learned counsel for the 5th respondent wants us to say that the action should be only in accordance with law therefore, we make it clear that the Panchayat will proceed in accordance with law.

(R.S.M.,J.) (K.B.,J.)
24.11.2022

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Internet:Yes/No
Index:Yes/No
Speaking/Non-speaking order



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Note:- Issue order copy on 24.11.2022.

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To:-

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R.SUBRAMANIAN, J.
and
K.KUMARESH BABU, J.

KKN

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