



W.P.(MD)No.26549 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

and

THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P(MD)No.26549 of 2022

Vijaya

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.

3.The Commissioner,
Kollencode Municipality,
Kanyakumari District.

4.Lourdhu Nayagam

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the Respondents to remove the encroachment in public street in Resurvey No.283/3 of Ezhudesom C – Village in Killiyoor Taluk pursuant to the information furnished by the 2nd Respondent's office in Na.Ka.No.E1/4220/2022, dated 26.10.2022, under Right to



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Information Act by considering the petitioner's representation dated 23.08.2022, within the time limit as fixed by this Hon'ble Court.

For Petitioner : Mr.B.Christopher

For Respondents 1 & 2 : Mr.V.Nirmal Kumar
Government Advocate

* * *

ORDER

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

The petitioner has come forward with this writ petition praying to issue a writ of mandamus, directing the respondents to remove the encroachment made in the public street in Resurvey No. 283/3, situated at Ezhudesom C – Village, Killiyoor Taluk, pursuant to the information furnished by the 2nd respondent's office in Na.Ka.No.E1/4220/2022, dated 26.10.2022, under Right to Information Act, 2005, by considering her representation dated 23.08.2022, within a time frame.

2. Heard Mr.B.Christopher, learned counsel for the petitioner and Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



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3. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the respondents 3 and 4 is dispensed with.

4. Alleging that the 4th respondent has made encroachment in the public street in Resurvey No.283/3, situated at Ezhudesom C – Village, Killiyoor Taluk, by building a house and thereby, preventing the free flow of the vehicles, the petitioner submitted a representation to the official respondents on 23.08.2022, and the same, according to the learned counsel for the petitioner, remains as such. Hence, the Writ Petition.

5. Learned counsel for the petitioner would further submit that though the petitioner has sought for a larger relief, she would be satisfied, if a direction is issued to the respondents 2 and 3 to dispose of her representation dated 23.08.2022, within a time frame.

6. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner, either in the



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representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the respondents 2 and 3 to consider the representation of the petitioner dated 23.08.2022, and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner, the 4th respondent and any other parties, the authorities concerned shall take necessary action for removal of the encroachment, after affording an opportunity of hearing to all the parties and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]
24.11.2022

Internet : Yes / No

Index : Yes / No

sj

To

1.The District Collector,
Kanyakumari District,
Nagercoil.



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2.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.

3.The Commissioner,
Kollemcode Municipality,
Kanyakumari District.



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