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W.P.No.18845 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.18845 of 2023 and

WMP No.18086 of 2023

Mani

... Petitioner

Vs.

The Executive Officer,
Mulanur Panchayat,
Mulanur Dharapuram Taluk,
Thirupur District, Pin 638 106.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records comprised in Na.Ka.No.177/2023 dated 14.06.2023 on the file of the respondent, Mulanur Town Panchayat, quash the same as illegal.

For Petitioner : Mr.V.Kadhirvelu

For Respondent : Mr.R.Vigeneshwaran,

Government Advocate



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ORDER

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(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This petition has been filed to quash the order passed by the respondent in Na.Ka.No.177/2023 dated 14.06.2023, as illegal.

2. The property in Survey No.586, situated at Mulanur Village, Dharapuram Taluk, measuring to an extent of 1.72 acres belonged to Mr.Karuppanna Gouner, husband of the petitioner and he died on 26.06.1998, leaving behind the petitioner and two daughters as his legal heirs. After his demise, the above said property was partitioned between his legal heirs, and the A schedule property was allotted to the share of the petitioner. In the A schedule property, the petitioner has made a temporary construction, with tin sheet roofing, during the year 2017. Also, the petitioner has applied for approval of new construction of commercial building during the year 2018, But, due to the pendency of W.P.3036/2018, the authorities concerned, stopped the process of approval and also issued the demolition notice dated 14.06.2023. According to the petitioner, the existing construction were temporary in nature and that will not attract the provision of the unauthorized construction under the Tamil Nadu District



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Panchayat Act. Hence, the above said impugned notice is liable to be quashed.

3. Mr.R.Vigneshwaran, learned Government Advocate takes notice for the sole respondent.

4. Heard the learned counsel for the petitioner and the learned Government Advocate, appearing for the sole respondent and also we have perused the materials on record.

5. A perusal of the records shows that, earlier, one Seetha had filed a writ petition in W.P.No.3036/2018 before this Court, seeking direction to the respondent herein to consider her representation and take appropriate action with regard to the illegal construction made by the petitioner herein and her daughters in the subject matter of the land, without getting any approval or permission from the authorities concerned, This Court, vide order dated 09.03.2023, has passed an order, which is extracted hereunder.

6. Considering the submissions made by the learned



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counsel appearing for the petitioner, the first respondent is directed to inspect the property in question within a period of two weeks from the date of receipt of a copy of this order and if there is any unauthorized construction put up by the respondents 2 to 4 is found during inspection, take appropriate action, after issuing notice to the petitioner as well as the respondents 2 to 4, within a period of four weeks, thereafter.

7. With the above directions, the writ petition is disposed of. No costs.

8. Post the matter " for reporting compliance on 13.04.2023".

6. Pursuant to the direction of this Court, the respondent herein has not taken any steps to comply the order, within a time frame, as granted by this Court. However, subsequently, the respondent has taken steps and issued the impugned notice dated 14.06.2023 to demolish the unauthorized structure put up by the petitioner in the property in question.

7. According to the petitioner, without giving any opportunity to the petitioner, the impugned notice has been issued. But, the petitioner has put up the temporary structure, without getting any permission from the authorities concerned. Further, she has not filed any material document to



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show that she has obtained approval from the authorities concerned for construction of such structure. Therefore, as against the unauthorized structure put up by the petitioner, the authorities concerned has to take necessary action to remove the same.

8. At this juncture, the learned counsel for the petitioner seeks one week time to remove the unauthorized structure and also to approach the authorities concerned to get approval for construction of building in the property.

9. Considering the request made by the learned counsel for the petitioner, we inclined to pass the following order.

i) The petitioner is directed to remove the unauthorized structure put up in the property in question, on or before 03.07.2023.

ii) If the petitioner failures to remove the unauthorized construction, within the above said period, the respondent is directed to take steps for removal of the afore said structure.

iii) It is for the petitioner to get permission from the authorities



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concerned for construction of the building in the property.

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10. With the above direction, this writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

(D.K.K.J.)

(P.D.B.J.)

26.06.2023

Note: Issue order copy on 27.06.2023

Internet: Yes/No

Index : Yes/No

mst

To

The Executive Officer,
Mulanur Panchayat,
Mulanur Dharapuram Taluk,
Thirupur District, Pin 638 106.



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D.KRISHNAKUMAR, J.

and

P. DHANABAL, J.

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