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W.P.No.26018 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.26018 of 2023
and W.M.P.No.25440 of 2023**

V.Kavitha

Petitioner

.....

Vs

1. The Secretary to Government
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.

2. The Director,
Directorate Of Town And Country Planning
2nd, 3rd and 4th Floor, C and E Market Road
Koymabedu Chennai-107.

3 The Deputy Director
District Town And Country Planning,
No.13, Varadarajar Street
Vedachalam Nagar
Chengalpattu District-603 001.

4 The Executive Officer
Mamallapuram Town Panchayat
Mamallapuram
Chengalpattu District-603 104.



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- 5 The President
Mamallapuram Town Panchayat
Mamallapuram
Chengalpattu District-603 104.
- 6 The Commissioner
Department Of Archaeological
Tamil Valarchi Valagam
Tamil Salai Egmore
Chennai-600 008.
- 7 The Senior Conservation Assistant
Archaeological Survey of India
Mamallapuram Sub-circle
Mamallapuram-603 104
Chengalpattu District.
- 8 E.Soundarajan

.....Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1 to 6 respondents to consider the petitioner's representations dated 12.08.2023 sent to stop unauthorised construction by the 8th respondent on his property measuring to an extent of 4716 sq.ft. comprised in old Grama Natham Survey No.147/16 new S.No.269/1B part, situated at Mamallapuram Firka and Village, Thirukalukundram Taluk, Chengalpattu.



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For Petitioner : Mrs.Kanimozhi Mathi

For Respondents : Mr.E.Vijay Anand for R1 to R3
Additional Government Pleader
Mr.R.Vignesh Kumar for R4 and R5
Government Advocate
Mr.R.Rajesh Vivekananthan
for R6 and R7
Deputy Solicitor General of India
Mr.K.Samidurai for R8

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This writ petition has been filed to direct the 1 to 6 respondents to consider the petitioner's representations dated 12.08.2023 to stop unauthorised construction put by the 8th respondent on his property, measuring to an extent of 4716 sq.ft. comprised in old Grama Natham Survey No.147/16 new S.No.269/1B part, situated at Mamallapuram Firka and Village, Thirukalukundram Taluk, Chengalpattu.

2. Today when the matter is taken up for hearing, learned counsel appearing for R8 would submit that the 8th respondent had just demolished the building which was in existence from the year 1995 and constructed a compound wall in order to secure his property.



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He further submitted that he will construct the building after getting approval from the Competent Authorities. He has also filed a counter affidavit to that effect, wherein, Paragraph No.8 reads as follows:

"8. I submit that, I am law abiding citizen as stated supra I have demolished the 60 years old building and going to construct by getting proper approval from the competent authorities, but the petitioner have not approached this Court with clean hands. The petitioner fabricated false and fictitious reasons to file this petition to obtain willful advantage and wrongful gain. Even accepting without admitted the right of easmentary, she has to approach the Civil Court and on her instance Civil Suit is pending in O.S.No.194 of 2023 before Addl Sub Court, Chengalpattu, hence invoking of Article 226 of Constitution of India for civil remedy and verge the vengeance is not permissible under law."

3. Recording the said submission and the counter affidavit filed by learned counsel for R8, this Writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
msv

(J.N.B,J.) (N.M., J.)
22.09.2023



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