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W.P.No.27548 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.27548 of 2021 and

WMP No.29095 of 2021

Suseela

... Petitioner

Vs.

1. The District Collector,
District Collector Office, Namakkal
2. The Revenue Divisional Officer,
Rasipuram, Namakkal District.
3. The President, Kurukkupuram Panchayat,
Kurukkupuram, Namakkal District.
4. Muthu Gounder
Respondents

...

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to act upon the representation of the petitioner dated 25.06.2021 and remove the poultry farm running by the fourth respondent and further restrain the fourth respondent from putting up poultry farm in the newly constructed illegal superstructure at survey No.90/4B1 (patta No.306), Kurukkapuram (Rev.



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Village), Rasipuram, Namakkal.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.A.Selvendran, Spl.Govt.Pleader,
for respondents 1 to 3

Mr.G.Arur Murugan for 4th respondent

ORDER

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

This petition has been filed to direct the respondents 1 to 3 to act upon the representation of the petitioner dated 25.06.2021 and remove the poultry farm running by the fourth respondent and further restrain the fourth respondent from putting up poultry farm in the newly constructed illegal superstructure at survey No.90/4B1 (patta No.306), Kurukkapuram (Rev. Village), Rasipuram, Namakkal.

2. The petitioner is residing at Kolinjipatti Village, Andagaloor Gate Post, Rasipuram Taluk, Namakkal District for more than 40 years. Adjacent to the house of the fourth respondent has constructed a poultry farm in afore said address, very close to the residential area and running the same, which causes hazardous to the life of the petitioner and her family members.



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further, the fourth respondent has constructed the said building without getting any permission from the concerned authorities and also, he has not maintained the poultry farm properly. Now, the fourth respondent has proceeded with another construction in the same place and extending the said poultry farm without getting permission to construct the building. The newly constructing superstructure is existing within 30 feet (9 meters) approximately from the petitioner's house.

2.1.The fourth respondent ought to have obtained permission under the Tamil Nadu Panchayats Buildings Rules, 1997 from the third respondent, before proceeding with the construction of the said poultry farm. and it has been constructed openly very near to the residential area at the height of 40 feet, without having any compound wall, as required under the rules. Therefore, the petitioner has made a representation on 25.06.2021 to the respondents 1 to 3 to take action against the fourth respondent, but they have not taken any steps. In the meantime, the fourth respondent had made an undertaking before the Pollution control Board that he will not proceed with further construction, before getting permission from them, however, he



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proceeded further and has completed 80% of the superstructure, without getting any permission. Hence the writ petition.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and we have perused the materials on record.

4. According to the petitioner, the fourth respondent has constructed the poultry farm, without getting any permission from the President of the Panchayat and also run the same very near to the residential area, which causes health hazardous to the nearby residents. The further contention of the petitioner is that, the fourth respondent has also extended his poultry farm, adjacent to the existing poultry farm, without getting permission from the authorities concerned and hence the petitioner has given a representation on 25.06.2021 to the respondents 1 to 3 to take action, however, it was not considered.

5. In reply to the above said allegations, the learned counsel for the



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fourth respondent submitted that the fourth respondent has obtained electricity service connection for the poultry farm on 21.04.1983 and he has been continuously paying the electricity charges from the year 2007. To that effect, the extract of E.B. consumer ledger has been produced before this Court. Further, he has also produced a reply dated 05.10.2021 sent by the District Environmental Engineer, Namakkal District to one Srinivasan, son of fourth respondent before this Court. From the above said letter, it came to know that the above said Srinivasan, son of fourth respondent had sent a letter on 29.09.2021 to the Tamil Nadu Pollution Control Board seeking exemption from getting permission from the Board to run the poultry farm, for which it was replied that, based on his request, the poultry farm was inspected on 01.10.2021 by the Assistant Engineer, Tamil nadu Pollution Control Board, Namakkal and during inspection, it came to know that, in the Poultry Farm, which is running in the name and style of M/s Muthugounder Poultry Farm in S.No.80/3, 90.4B1, Kurukkapuram Village, Rasipuram Circle, Namakkal District, only 20,000 numbers of birds were found. Further, as per the revised guidelines issued in the month of August 2021 by the Central Pollution Control Board, if the poultry farm is running



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below 25,000 numbers of birds, exemption has been granted to the poultry farms from getting permission from the Board to run the poultry farm.

Therefore, as per the revised guidelines issued by the Central Pollution Control Board, there is no need to get permission from the Board to run the poultry farm.

6. Also, the learned counsel for the fourth respondent stoutly denied the allegation of the petitioner that, the fourth respondent has constructed a new building, extending the poultry farm. He also stated that the fourth respondent has made only renovation work for the existing poultry farm and not put up any new building, as alleged by the petitioner.

7. From the above, it is clear that the poultry farm was given electricity service connection on 21.04.1983 itself and the electricity charges have been paying from the year 2007 by the fourth respondent. Further, the records reveal that, exemption has been granted to the fourth respondent from getting permission from the Pollution Control Board to run the poultry farm, as it is running with 20,000 numbers of birds only. Therefore, the



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fourth respondent is running the poultry farm in accordance with the existing rules.

8. The specific prayer of the petitioner is that, by considering his representation dated 25.06.2021, the poultry farm running by the fourth respondent has to be removed and further, the fourth respondent has to be restrained from putting up new poultry farm. As discussed above, the poultry farm was established in the year 1983 itself and is running continuously by paying electricity charges; and the Pollution Control Board has also granted exemption from getting permission, thereby, the fourth respondent is running the poultry farm. Therefore, the poultry farm cannot be directed to be removed by considering her representation. Further, the allegation of the petitioner with regard to the construction of new poultry farm is concerned, the same is denied by the fourth respondent. However, if the fourth respondent had constructed any new building, without getting any permission from the authorities concerned, it is open to the petitioner to approach the authorities concerned seeking her remedy.



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WEB COPY 9. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (P.D.B.J.)

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Internet: Yes/No

Index : Yes/No

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To

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