



W.P.No.33436 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.33436 of 2023

Deivanai

... Petitioner

Versus

1. The District Collector,
O/o. District Collector, Erode.
2. The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Gobichettipalayam.
3. The Superintendent of Police,
Erode District, Erode.
4. The Thasildar,
O/o. Thasildar, Gobichettipalayam.
5. Shanmugam
6. Murthy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus to direct the second respondent to consider and pass orders on the petitioner's appeal dated 20.05.2023 submitted before the second respondent.

For Petitioner : Mr. M. Gnanasekar

For Respondents : Mrs. Senthil Selvi,
Government Advocate. (for R1, R2 & R4)
: Mr. N. Muthuvel,
Government Advocate (Criminal Side) (for R3)



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ORDER

The petitioner filed this Writ Petition for a “simplicitor mandamus” to direct the second respondent to consider the petitioner's appeal dated 20.05.2023 and dispose of the same, within a time stipulated by this Court.

2. It is the case of the petitioner that the petitioner's land was encroached by the adjacent land owners. Therefore, earlier, the petitioner filed Writ Petition No.27810 of 2022 seeking direction to respondents 1 to 4 to consider the representation dated 04.08.2022 and to take action to restore the land assigned in favour of the petitioner's husband by the assignment order dated 29.08.1985. The said Writ Petition was disposed on 20.10.2022, directing the fourth respondent therein to implement the order dated 15.06.2022, passed by the second respondent based on the petitioner's representations dated 02.05.2022 and 06.06.2022, thereby, the second respondent directed the fourth respondent to verify the encroachment, if any, and pass appropriate orders.



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3. Thereafter, the petitioner made several representations on various dates 13.02.2023, 24.03.2023, 08.05.2023 and 30.05.2023 before the fourth respondent herein to comply with the order dated 20.10.2022 passed in W.P.No.2780 of 2022 by this Court. While that being so, suddenly, the petitioner received a Memo dated 21.04.2023 from the fourth respondent, on 20.05.2023, stating that the request of the petitioner was rejected with liberty to file an appeal before the second respondent. It is also the main contention of the petitioner that the order passed on 01.02.2023, was received by the petitioner only on 20.05.2023, and therefore, without any delay, on the same day itself, the petitioner filed the appeal before the second respondent herein. Thereafter, even though the second respondent issued a notice for enquiry on 13.06.2023, without conducting the enquiry, the matter was adjourned without mentioning the next date of hearing. Even after lapse of three months, there was no call received by the petitioner for conducting the enquiry. Thereafter, the petitioner made a representation dated 29.09.2023 to the second respondent, requesting to consider the appeal filed by her and to pass order on the same. Due to the sluggishness on the part of the second respondent, having no other option, the petitioner is constrained to file the present Writ



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Petition before this Court.

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4. The learned Government Advocate appearing for respondents Nos.1, 2 & 4 acceded to the submissions made by the learned counsel for the petitioner and submitted that if a direction is given to the second respondent, he/she will consider the appeal filed by the petitioner and pass orders thereon on merits and in accordance with law.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents No.1, 2 & 4 as well as the learned Government Advocate (Crl.side) appearing for the third respondent and perused the materials available on record.

6. Since no adverse order is passed against the fifth and sixth respondent, notice to them is hereby dispensed with.

7. Considering the submissions made on either side and taking into consideration the limited prayer sought for in this Writ Petition, without going into the merits of the case, this Court is inclined to direct the



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second respondent to consider the petitioner's appeal dated 20.05.2023; after issuing notice to the petitioner and respondents 5 & 6 and also any rival parties involved in the appeal; and after affording opportunity of hearing to all the parties; dispose of the appeal on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

8. With the above observation and directions, the Writ Petition is disposed of. No costs.

29.11.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Case Citation : Yes/No

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To:

- 1.The District Collector, O/o. District Collector, Erode.
2. The Revenue Divisional Officer,
O/o. Revenue Divisional Office, Gobichettipalayam.
3. The Superintendent of Police, Erode District, Erode.
4. The Thasildar, O/o. Thasildar, Gobichettipalayam.



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P. VELMURUGAN, J.

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