



W.P.(MD)No.1643 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.1643 of 2021

M.Parvathi

... Petitioner

Vs.

1.The Special Officer,
Panchayat Union Office,
Manur,
Tirunelveli /District.

2.The Block Development Officer (Gen),
Manur, Tirunelveli District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to consider the petitioner's application for grant of building plan approval dated 12.05.2018 for her house site in Ward-4, old S.No.255/1, New S.No. 687/45, Nadu Street, Pudur, Tirunelveli Taluk and dispose of the same within a time frame fixed by this Court.



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For Petitioner : Mr.M.S.Suresh Kumar

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the first respondent to consider the application submitted by the petitioner on 12.05.2018, wherein, the petitioner is seeking for building plan approval for the subject property in Ward-4, old S.No.255/1, New S.No.687/45, Nadu Street, Pudur, Tirunelveli Taluk

2. The case of the petitioner is that she is the absolute owner of the subject property and that she submitted a building plan before the first respondent seeking for approval and the same was not considered and aggrieved by the same, the present Writ Petition has been filed before this Court.

3. When the matter was taken up for hearing on 10.10.2023, this Court directed the learned counsel on either side to take instructions on the present status. Accordingly, the matter was posted for hearing today.



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4. When the matter was taken up for hearing today, the learned Additional Government Pleader appearing on behalf of the respondents submitted that the petitioner does not have a patta in her favour and that the property has been categorized as a natham and therefore, the application submitted for building plan approval was not considered. The learned Additional Public Prosecutor also brought to the notice of this Court the fact that one Paramesh had filed W.P.(MD).No. 24371 of 2019 before this Court seeking for removal of the encroachment made by the petitioner and her husband and this writ petition was disposed of by an order dated 18.10.2022 directing the authorities to remove the encroachment after affording an opportunity to the parties concerned. The learned Additional Government Pleader submitted that one of the property where the encroachment is stated to have been made by the petitioner is in Survey No.687 /45. The learned Additional Public Prosecutor submitted that in view of this development, there is no question of considering the building plan approval application submitted by the petitioner.

5. It is also brought to the notice of this Court that the



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petitioner had sought for the issuance of patta with respect to the portions of the property that were in her possession in Survey Nos.687/44, 687/45 and 687/46 and the said application was rejected by the Tahsildar through proceedings dated 07.12.2022 and the subsequent proceedings dated 15.12.2022. This rejection order was made a subject matter of challenge before this Court in W.P.(MD).No.29206 of 2022. This Writ Petition is pending before this Court and while entertaining this writ petition, this Court had also granted an order of interim stay.

6. In the light of the above development, the application submitted by the petitioner seeking for building plan approval before the first respondent cannot be considered till the authorities take a decision with regard to the alleged encroachment made by the petitioner pursuant to the directions issued by this Court in W.P.(MD).No.24371 of 2019. That apart, the issue with regard to the refusal to grant patta is also pending in W.P.(MD).No.29206 of 2022. Till a clear picture is arrived at regarding the right of the petitioner over the subject property in New Survey No. 687/45, there is no question of directing the respondents to act upon the application submitted by the petitioner seeking for building plan approval.



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In view of the same, the relief sought for in this Writ Petition cannot be granted by this Court and in the result, this writ petition stands dismissed.

No costs.

17.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg

To

1.The Special Officer,
Panchayat Union Office,
Manur,
Tirunelveli /District.

2.The Block Development Officer (Gen),
Manur, Tirunelveli District.

N.ANAND VENKATESH, J



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