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W.P.(MD) No.2064 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD) No.2064 of 2023
and
W.M.P(MD)No.1850 of 2023**

Pushpavalli

... Petitioner

-VS-

1.The District Collector,
Madurai.

2.The Tahsildar,
Thirumangalam Taluk,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to the respondents herein to consider the petitioner's request for purchasing 23 square feet of lands in S.No.249/112A, M.Veerapatti Village, Thirumangalam Taluk, Madurai District, payment of prevailing market rate, by considering her representation dated 02.01.2023.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.V.Nirmal Kumar

Government Advocate



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W.P.(MD) No.2064 of 2023



ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

Pushpavalli, W/o.Vembadiyan, a resident of D.No.3/32, South Street, M.Veerapatti Village, Mathippanoor Post, Thirumangalam Taluk, Madurai District, has once again visited this Court for issuance of a Writ of Mandamus, directing the respondents herein to consider her request for purchasing 23 square feet of lands in S.No.249/112A situated at M.Veerapatti Village, Thirumangalam Taluk, Madurai District, on payment of prevailing market rate, by considering her representation dated 02.01.2023.

2. Learned counsel appearing for the petitioner would submit that the petitioner owns land measuring 3.28 ares in Survey No.249/95B, for which, patta has also been issued. However, inadvertently, the petitioner extended her construction for about 23 sq.ft i.e., 3/4 feet X 30 feet beyond her patta land. Now, the entire construction is raised on that portion. If that portion is demolished, the entire house will fall down. Therefore, the petitioner has been advised to give a representation to the



respondents dated 02.01.2023 for purchasing 23 square feet of land in Survey No.249/112A on payment of the prevailing market rate. Thus, the said representation may be directed to be considered keeping in mind that if any demolition takes place, the entire construction put up on the portion covering 23 square feet would fall down and the entire building also would be ruined, he pleaded.

3. Mr.V.Nirmal Kumar, learned Government Advocate appearing for the respondents submitted that the encroached portion of the land having an extent of 23 square feet is also being used by the public as a passage.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. We are unable to entertain the Writ Petition. The reason is, when a Writ Petition in W.P(MD)No.1312 of 2019 filed before this Court by one Lakshmi, seeking a direction to the Tahsildar to evict the encroachments made in Survey No.249/112A situated at Veerapatti Village, Mathipanoor Post, Thirumangalam



Taluk, Madurai District, on the basis of the notice issued by the Tahsildar dated 07.03.2018, this Court, by order dated 12.07.2019, finding that the revenue officials have already initiated proceedings for removing the encroachment which also ended in passing a final order under Section 6 of the Tamil Nadu Land Encroachment Act, closed the said Writ Petition.

6. Challenging the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act by the second respondent with a consequential direction to the respondents to issue patta in respect of 4 square feet of excess land situated at Veerapatti Village, Mathipanoor Post, Thirumangalam Taluk, Madurai District, the present petitioner filed a Writ Petition in W.P(MD)No.19392 of 2019 and this Court by order dated 06.09.2019, taking note of the fact that there are encroachments made by the petitioner for about 106 sq. ft., dismissed the Writ Petition.

7. Again, the said Lakshmi filed a Writ Petition in W.P(MD)No.5424 of 2021, seeking for a Writ of Mandamus, directing the respondents 1 to 3 therein, to remove the encroachments made by the respondents 4 to 6 therein, in the



W.P.(MD) No.2064 of 2021

Government public street situated in Survey No.249/112A, Veerapatti Village, Mathipanoor Post, Thirumangalam Taluk, Madurai District. In the said writ petition, the present petitioner was arrayed as sixth respondent and this Court, by order dated 24.08.2021, recording the statement made by the learned standing counsel appearing for the official respondents that the encroachment will be removed in accordance with law, disposed of the said Writ Petition with a direction to the second respondent therein, to comply with the order passed under Section 6 of the Act. Finally, when the said Lakshmi filed a contempt petition in Cont.P(MD)No.1838 of 2021 alleging non- compliance of the order passed in W.P(MD)No.5424 of 2021, dated 24.08.2021, a report was filed by the contemnors stating that other encroachers removed the encroachment, but the present petitioner alone gave an undertaking before the authority that if the said wall is removed, the entire building will be collapsed. Recording the same, the contempt petition was closed. The relevant portion of the order passed in Cont.P(MD)No.1838 of 2021 dated 16.12.2022 is given as under:-

"9.Pushpavalli, the sixth respondent in the Writ Petition, who has made encroachments to the extent as



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indicated above, has given an undertaking before the authority that if the said wall is removed, the entire building will be collapsed. Therefore she seeks three months time to remove the said encroachment by making alteration of the building.

10. In view of the specific undertaking given by Pushpavalli, who is one of the respondents in the Writ Petition and recording the status report filed by the second respondent, the said Pushpavalli, who is the sixth respondent in the Writ Petition, is given three months time to remove the encroachment made by her and in default, the second respondent/Tahsildar, Thirumangalam Taluk, Thirumangalam is directed to take action for removal of encroachment made by the said Pushpavalli and remove the same within a period of three weeks thereafter. The appearance of the first respondent/Mr. Anees Sekar, The District Collector, Madurai District, Madurai before this Court, is dispensed with and discharged from the contempt proceedings."

8. Since the petitioner has already agreed for removal of encroachment from the land having an extent of 23 sq.ft., we are not inclined to entertain this Writ Petition.



9. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[T.R., A.C.J.] [D.K.K., J.]
02.02.2023

NCC : Yes / No
Index : Yes / No
Internet: Yes
bala/ps

To

- 1.The District Collector,
Madurai.
- 2.The Tahsildar,
Thirumangalam Taluk,
Madurai District.



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W.P.(MD) No.2064 of 2023:

T.RAJA, A.C.J.
and
D.KRISHNAKUMAR, J.

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