



W.P(MD)No.5594 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5594 of 2023

Anthonyammal

... Petitioner

Vs.

The Tahsildar
Kayatharu Taluk,
Kayatharu,
Thoothukudi District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in connection with the impugned order of rejection passed by him vide his proceedings in No.A1/212/2022 dated 29.11.2022 and quash the same as illegal and arbitrary and thereby direct him to survey and fix boundaries of the



W.P(MD)No.5594 of 2023

petitioner house site in Kayatharu Village that has been regularized as Plot No.8 of Block No. 228A by the respondent vide his assignment order in H.S.No.1390 dated 31.03.1990.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.J.Ashok,

Additional Government Pleader

ORDER

The writ petition has been filed in the nature of a Mandamus seeking records of the respondent / Tahsildar, Kayatharu Taluk, Thoothukudi District, in relation to an order dated 29.11.2022 in No.A1/212/2022 by which order, the respondent had rejected the application given to survey the land. The petitioner had been assigned with land in Plot No.8, Block No.228A by assignment order in H.S.No. 1390 dated 31.03.1980.

2. Among the various conditions of such assignment was that the petitioner should put up a house within a period of one year. The petitioner had not put up such a house.



W.P(MD)No.5594 of 2023

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3. The petitioner in her affidavit had stated that she had to migrate to Tirunelveli for survival and thereafter, since there was nobody residing in the place, there was a necessity to survey the land.

4. However, in the counter affidavit, it had been stated that the petitioner was working as a teacher and that her husband, is a retired Police Officer. It is also stated that the petitioner has her own house at Tirunelveli. It is also stated that she has one son and one daughter and cannot be termed as a person below the poverty line. It is stated that since there has been a violation of foundational condition for assignment namely, to construct a house within one year, necessary steps will be initiated by the respondent herein. The fact that the petitioner had not constructed a house, as stated in the counter affidavit has not been specifically denied and conversely, that the petitioner has built a house is also not stated in the affidavit filed in support of the writ petition.

5. It is therefore, evident that the condition has not been satisfied by the petitioner herein. The respondent is at liberty to proceed



W.P(MD)No.5594 of 2023

further in manner known to law, if at all the petitioner is aggrieved by the refusal to conduct survey, the petitioner may give a representation to the Revenue Divisional Officer against the order of the Tahsildar, but still, this would not preclude the respondent from passing appropriate further orders.

5. With the above observation, the Writ Petition stands disposed of. No costs.

19.04.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No

RM



W.P(MD)No.5594 of 2023

To
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The Tahsildar
Kayatharu Taluk,
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W.P(MD)No.5594 of 2023

C.V.KARTHIKEYAN, J.

RM

W.P(MD)No.5594 of 2023

19.04.2023