



W.P.(MD) No.7840 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.7840 of 2023
and
W.M.P.(MD) No.7260 of 2023**

C.Mayakkal

... Petitioner

-VS-

- 1.The District Collector
Theni District
Theni
- 2.The Revenue Divisional Officer
Periyakulam
Theni District
- 3.The Thashildar
Periyakulam Taluk
Theni District
- 4.The Assistant Executive Engineer
Tamil Nadu Generation and
Distribution Corporation
Theni

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents 1 to 3 from fencing the dwelling house of the petitioner situated in Survey No.1255/2A and 1257/1A, Vadaveeranayakkanpatti, Periyakulam Taluk, Theni District-625 531.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R1 to R3
Mr.S.Deenadhayalan for R4

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.A.Baskaran, learned Additional Government Pleader, takes notice for the respondents 1 to 3 and Mr.S.Deenadhayalan, learned counsel, takes notice for the fourth respondent.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



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3. It is the complaint of the petitioner that she has put up a dwelling house in Survey Nos.1255/2A and 1257/1A, Vadaveeranayakkanpatti, Periyakulam Taluk, Theni District-625 531, measuring about 2.5 Cents.

4. According to the petitioner, she purchased the said property under a registered sale deed, dated 04.11.2020, from one Anbazhagan. She had also applied for grant of patta. While so, the Authorities claiming that the property is a poramboke land have started fencing of her house, thereby denying access to her house. The petitioner would also contend that she is entitled to free house site patta under the scheme proposed by the Government. She would further contend that the patta that was granted to her vendor was cancelled by order dated 23.09.2021.

5. It is seen from the order of this Court dated 08.10.2021 that the order cancelling the patta has been set aside at the instance of eleven other persons, who were similarly placed.



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6. In view of above, we find that the action of the official respondents in attempting to fence the land in possession of the petitioner is not legal. If the petitioner is occupant of the Government land and she is not entitled to free house site patta, it is open to the respondents to take appropriate action under the Tamil Nadu Land Encroachment Act, 1905, for removal of the encroachment. Fencing of a property belonging to the petitioner would amount to infraction of her right to live, which is a fundamental right.

7. Hence, the writ petition is allowed. There will be a mandamus forbearing the respondents 1 to 3 from erecting a fence around the house of the petitioner, thereby denying access to her house. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

06.04.2023

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

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