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WP.No.35028 of 2024

In the High Court of Judicature at Madras

Dated : 26.11.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.35028 of 2024

Mrs.Kamala

Vs

...Petitioner

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The District Revenue Officer,
O/o the District Revenue
Officer, Dharmapuri District,
Dharmapuri.
- 3.The Revenue Divisional Officer,
O/o the Revenue Divisional
Officer, Harur & Taluk,
Dharmapuri District.
- 4.The Tahsildar, Harur Taluk,
Dharmapuri District.
- 5.The Assistant Circle Engineer,
Highways & Rural Works
Department, Harur.
- 6.The Assistant Divisional Engineer,
Highways Department, Harur.
- 7.The Executive Officer, Town
Panchayat, Harur & Taluk,
Dharmapuri District.

...Respondents



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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to take necessary action for restoration of the petitioner's house and shop portions along with a fair compensation for hasty steps taken to acquire the subject land situated at Mettu Street, Mettupatti Village, Melpatchapettai, Harur Town, Harur Taluk, Dharmapuri District, Ward No.5, comprised in Village Survey No.16/5B measuring on the east to west 11 feet and south to north 47 feet (including shop Nos.5/70 A-3, 5/70 A-4, 5/70 A-5, 5/70 A-6 and 5/70 A-7) or any other alternative remedies on the basis of the petitioner's representation dated 14.3.2024.

For Petitioner : Mr.R.Thanjan
For Respondents : Mr.A.Selvendran, SGP

ORDER

A Mandamus is sought for by the petitioner to the respondents to consider her representation dated 14.3.2024 to restore the house and shop portions, which have been demolished without following the due process of law and to grant her fair compensation for the hasty manner, in which, the property comprised in Village Survey No.16/5B, Ward No.5 measuring on the east to west 11 feet and south to north 47 feet (including shop Nos.5/70 A-3, 5/70 A-4, 5/70 A-5, 5/70 A-6



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and 5/70 A-7) in Mettu Street, Mettupatti Village, Melpatchapettai, Harur Town, Harur Taluk, Dharmapuri District, was acquired.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the respondents.

3. The case of the petitioner is as follows :

(i) A larger extent of the subject property belongs to the petitioner, out of which, an extent of 11 feet from east to west and 47 feet from south to north was acquired. The petitioner's vendor encroached into the said property. She purchased the subject property from him by way of an unregistered sale deed for a valid sale consideration and thus, became the owner of the same. The subject property is a natham poramboke as confirmed by the certificate of the seventh respondent dated 28.6.2002. After the purchase, the petitioner constructed a house and the shop portions, which have been let out to various persons.

(ii) While so, respondents 5 and 6 disturbed her possession and enjoyment of the subject property, which constrained her to file O.S. No.458 of 1995 on the file of the District Munsif Court, Harur against respondents 1 and 6 seeking to grant a permanent injunction from disturbing her possession and enjoyment and it was decreed on



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27.3.2001. Thereafter, the petitioner applied to the fourth respondent for the issuance of patta. In this regard, to make recommendations, a resolution was passed in the general body meeting of the seventh respondent panchayat on 21.6.2002 and it was communicated to the fourth respondent vide proceedings of the seventh respondent dated 28.6.2002.

(iii) Further, respondents 1 and 6 filed an appeal in A.S.No.34 of 2004 on the file of the Sub-Court, Dharmapuri as against the judgment dated 27.3.2001 in O.S.No.458 of 1995 on the file of the District Munsif Court, Harur. The said first appeal was dismissed by judgment dated 29.12.2005 confirming the judgment and decree of the Trial Court. The second appeal filed against the said judgment dated 29.12.2005 went against respondents 1 and 5. Therefore, the petitioner's possessory right over the subject property had been confirmed.

(iv) Once again, respondents 5 and 6 attempted to take possession of the subject property. On 13.3.2024, the sixth respondent called upon the petitioner to remove the superstructure of the subject property, for which, the petitioner sent a detailed representation dated 14.3.2024 to respondents 1 to 4 and 7 as well as the Village Administrative Officer, Harur raising objections. That being so, the first respondent, colluding with respondents 5 and 6, took



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steps to remove the house and the shop portions and all of a sudden, without any notice or inquiry, the house and the shop portions of the petitioner were demolished hastily. The demolition took place in total violation of the rule of law. In fact, the respondents took law into their hands. Hence the writ petition.

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

5. Though a detailed representation dated 14.3.2024 was given to respondents 1 to 4 and 7 as well as the Village Administrative Officer, Harur calling upon them not to interfere with her peaceful possession and enjoyment of the subject property pursuant to a judgment and decree in her favour as confirmed by the First Appellate Court and this Court and despite an order of permanent injunction staring at their face, respondents 5 and 6 have high-handedly demolished the house and the shop portions of the subject property of the petitioner. A perusal of the said representation would reveal that the petitioner requested the authorities not to cause any disturbance in the peaceful possession and enjoyment of the petitioner.



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6. In view of the above discussions, the writ petition is allowed and the first respondent is directed to consider the said representation of the petitioner dated 14.3.2024, afford an opportunity to put forth her case and thereafter pass appropriate orders thereon keeping in mind the fact that the petitioner has got a decree for permanent injunction against respondents 5 and 6, who are stated to have demolished the house and the shop portions of the petitioner. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

26.11.2024

To

- 1.The District Collector, Dharmapuri District, Dharmapuri.
- 2.The District Revenue Officer, Dharmapuri District, Dharmapuri.
- 3.The Revenue Divisional Officer, Harur & Taluk, Dharmapuri District.
- 4.The Tahsildar, Harur Taluk, Dharmapuri District.
- 5.The Assistant Circle Engineer, Highways & Rural Works Department, Harur.
- 6.The Assistant Divisional Engineer, Highways Department, Harur.
- 7.The Executive Officer, Town Panchayat, Harur & Taluk, Dharmapuri District.

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