

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 16.04.2024****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.8833 of 2024 AND**
W.M.P.(MD)Nos.8048 & 8051 of 2024

E.Yasodha

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Housing and Urban Development,
Secretariat, Fort St. George, Chennai – 600 009.
2. The Commissioner,
Directorate of Town and Country Planning,
Anna Salai, Chennai – 600 807.
3. The Joint Director/ Member Secretary,
District Town Planning Office,
No.446-A, Nehuruji Street,
Allinagaram, Theni – 625 531.
4. The District Collector,
Theni District, Theni.
5. The District Revenue Officer,
Theni District, Theni.
6. The Revenue Divisional Officer,
Periyakulam, Theni District.
7. The Tahsildar,
Aundipatti, Theni District.
8. The Executive Engineer,
TANGEDCO, Theni District, Theni.



9. The Assistant Executive Engineer,
TANGEDCO, Kandamanur,
Theni District.

10. The President,
Kandamanur Village Panchayat,
Kandamanur, Theni District.

11. C. Jeganathan

12. A. Prabhakaran

13. L. Suresh

14. Chinnasamy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent in ROC.No.Theni/RSU3KQ6Q/2023/TCP dated 14.12.2023 and quash the same and consequently direct the respondents 1 to 10 to remove cravel sand filled up in the proposed approval granted area by the respondents 11 to 14 by considering the petitioner's representation dated 15.02.2024.

For Petitioner : Mr.S.Sadeskumar

For R-1 to R-7 : Mr.T.Villavankothai,
Additional Government Pleader.

For R-8 & R-9 : Mr.S.Deenadhayalan,
Standing counsel.

For R-11 & R-12 : Mr.Sricharan Rangarajan,
Senior counsel,
for Mr.N.Sathishwaran.

* * *

**ORDER**

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Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 to 7 and the learned Standing counsel for TANGEDCO and the learned Senior counsel appearing for the private respondents.

2. The writ petitioner challenges the technical clearance accorded by the third respondent in favour of the layout promoters(private respondents herein). The learned counsel appearing for the petitioner primarily contended that Rule 6 of the Tamil Nadu Change of Land Use(From Agriculture to Non-Agriculture Purposes in Non-planning Areas) Rules, 2017 has not been complied with in this case as the District Collector's prior approval has not been obtained. This contention has no merit. As rightly pointed out by the learned Senior counsel for the layout promoters, the lands in question have been classified as dry lands. Pattas enclosed by the writ petitioner herself bears this out. Rule 5 reads as follows:-

“Concurrence of the Director:-

The Director, after the receipt of the application from the local authority, shall obtain the prior concurrence of the Collector in the case of wet lands and a report from



the Joint Director of Agriculture in case of dry lands.”

Since the petition mentioned lands are dry lands, prior concurrence need not be obtained. The petitioner has erroneously assumed that the lands are wet lands.

3. More than anything else, the petitioner is only an adjoining land owner. I wanted to know as to how her rights will be affected. I called upon the petitioner's counsel to file a memo indicating the issues which she may face. The learned counsel for the petitioner has filed a memo and one of the grievances set forth therein is that on account of levelling of the land by the promoters, the petitioner's land faced the prospect of inundation. It is stated that such an incident had already occurred and the promoters had paid a sum of Rs.40,000/- as compensation. The petitioner's counsel states that such issues may recur.

4. I find considerable merit in the aforesaid contention. Even while not interfering with the impugned technical approval, I direct the private respondents (layout promoters) to put in place appropriate measures as to ensure that on account of the topography and lie of the lands, the petitioner is not put to any kind of inundation or damage.

5. The petitioner's counsel also states that if bore wells are installed, the water level will suffer depletion. The learned Additional



Government Pleader informed that for installing bore well, clearance from the competent authority may be required. I am certain that no bore well will be installed without obtaining such clearance from the competent authority if required. In my view, these twin directions and observations should address the concerns expressed by the petitioner. The impugned technical approval is sustained and this writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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7

W.P.(MD)NO.8833 OF 2024

G.R.SWAMINATHAN,J.

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W.P.(MD)No.8833 of 2024

16.04.2024