



W.P(MD)No.15376 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.15376 of 2021
and
W.M.P(MD)Nos.12269 & 12271 of 2021**

Prabavathi

... Petitioner

VS.

- 1.The District Collector,
Tirunelveli District,
Kokkirakulam,
Tirunelveli.
- 2.The Block Development Officer,
Valliyoor Range,
Tirunelveli District.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation,
Tirunelveli District,
Tirunelveli.
- 4.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution Corporation,
Panagudi,
Tirunelveli District.



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5.The Junior Engineer,
Perungudi,
Office now at Kumarapuram Village,
Kanyakumari District.

6.Esakkimuthu

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1, 2 and 5 to demolish the unapproved construction at Survey No.2580/4 to an extent of 2-1/2 cents in the total extension of 5 cents at Perungudi Village Part-I, Kavalkinaru Panchayat, Panagudi Sub Registration and Tirunelveli District in pursuance of the representation of the petitioner, dated 21.07.2021.

For Petitioner	: Mr.S.Palani Velayutham
For Respondent Nos.1 & 2	: Mr.S.P.Maharajan Special Government Pleader
For Respondent Nos.3 to 5	: Mr.S.Deenadhayalan
For Respondent No.6	: No appearance

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

Prayer in this Writ Petition is to direct the respondents 1, 2 and 5 to demolish the unapproved construction at Survey No.2580/4 to an extent of 2-1/2 cents in the total extension of 5 cents at Perungudi Village Part-I, Kavalkinaru Panchayat, Panagudi Sub Registration and Tirunelveli

2/6



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2. According to the petitioner, her husband deceased Durairaj had extensive properties in and around the petitioner's native place. When the mother of the deceased Durairaj was alive, she executed a settlement deed in favour of the deceased Durairaj with regard to the property bearing Survey No.2580/4 measuring to an extent of 5 cents at Perungudi Village Part-I, Kavalkinaru Panchayat, Panaguid Sub Registration, Tirunelveli District, in which, a house is situated towards the western side to an extent of 2-1/2 cents with approved plan and remaining portion left vacant. Further, according to the petitioner, as on date, the house and vacant site belongs to the deceased Durairaj and his legal heirs, as per the settlement deed executed in favour of the deceased Durairaj by his mother. The said Durairaj also died leaving behind his wife and two children and they are owners of the property in question. In the meantime, the sixth respondent, who is none other than the brother of the deceased Durairaj, had made a claim over the abovesaid property, even though he is not the beneficiary in the settlement deed executed by their mother. Since the sixth respondent has made an attempt to construct the remaining portion of the vacant land



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in question without obtaining necessary permission from the authority concerned, the petitioner submitted a representation dated 21.07.2021 to the first respondent. However, the said representation has not been considered. Hence, the petitioner has filed the present Writ Petition.

3.The learned Special Government Pleader appearing for the respondents 1 and 2, on instructions, submits that if the construction made by the sixth respondent is found to be an unauthorized construction, the authority concerned will take necessary action for removal of the same in accordance with law.

4.Considering the limited scope of the prayer sought for by the petitioner, without going into the merits of the matter, we direct the respondents 1 and 2 to consider the representation of the petitioner dated 21.07.2021, and pass appropriate orders on merits and in accordance with law, after providing due opportunity to the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order.



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5.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
18.03.2024

NCC : Yes / No
Index : Yes / No
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To

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
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DATED : 18.03.2024