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W.P.(MD) No.16118 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

CORAM:

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

**W.P.(MD) No.16118 of 2022
and
W.M.P.(MD) No.11646 of 2022**

Benin Ginas

... Petitioner

-vs-

- 1.The District Collector
Kanyakumari District
at Nagercoil
- 2.The Assistant Director of Panchayat
Collectorate
Kanyakumari District at Nagercoil
- 3.The Block Development Officer
Muncirai Panchayat Union
Munchirai, Kanyakumari District
- 4.The Panchayat President
Thoothoor Panchayat
Poothurai, Kanyakumari District



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5.Rethinamma

6.Feji Castro

7.Febin Castro

8.Goodly Soosan

9.Susvin Castro

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 4 to take appropriate action as against the respondents 5 to 9 under Rule 34 of the Tamil Nadu Panchayat Building Rules, 1997 and to demolish the unauthorized and illegal construction made by the respondents 5 to 9 in R.Sy.No.289/2A of Ezhudesom “C” Village, Thoothur Panchayat, Killiyoor Taluk, Kanyakumari District, within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 to R4
Mr.K.P.Narayanakumar for R5 to R7



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the respondents 1 to 4 to take appropriate action as against the respondents 5 to 9 under Rule 34 of the Tamil Nadu Panchayat Building Rules, 1997 and to demolish the unauthorized and illegal construction made by the respondents 5 to 9 in R.Sy.No.289/2A of Ezhudesom “C” Village, Thoothur Panchayat, Killiyoor Taluk, Kanyakumari District, within the time stipulated by this Court.

2. According to the petitioner, the fifth respondent, with an intention to grab the other properties, in collusion of others, created a forged settlement dated 17.10.2018 and based on the said settlement deed, she is putting up a construction in the subject property unauthorizedly without obtaining any permission from the authority concerned and a suit is pending before the Sub Court, Kuzhithurai. Ventilating the same, the petitioner made a representation to the respondents 1 to 4 on 12.05.2022, but thereafter, no fruitful action was taken by them. Hence, this writ petition.



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3. Learned counsel for the respondents 5 to 7, on instructions, submits that there is a private dispute between the parties and a suit is also pending before the Civil Court and due to personal enmity, the petitioner has filed this writ petition. That apart, the respondents 5 to 7 have made construction only in 430 sq.ft., and it is only an asbestos sheet shed and therefore, no permission is required for the same.

4. Taking into consideration the above facts and circumstances, we are of the view that the dispute between the parties is a private dispute and a civil suit is also pending before the Civil Court and according to the respondents 5 to 7, they have put up only an asbestos sheet sheet that too in 430 sq.ft., and therefore, no permission is required for the same. These aspects are to be considered only by the authority concerned. Hence, we direct the petitioner to submit a fresh representation to the official respondents ventilating his grievance and thereafter, it is for the official respondents to consider the same and pass orders on merits and in accordance with law, after providing due opportunity to the parties concerned.



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5. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

13.03.2024

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

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at Nagercoil.
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