



W.P.(MD) No.22410 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.22410 of 2021

P.Liyo Karki

... Petitioner

-Vs-

- 1.The District Collector,
Thoothukudi, Thoothukudi District.
- 2.The Director of Town Panchayats,
75, Santhome Road,
R.A.Puram, Chennai-600 028.
- 3.The Assistant Director of Town Panchayats,
NGO, 'B' Colony, Perumalpuram,
Tirunelveli-627 007.
- 4.The Executive Officer,
Kayathar Town Panchayat,
Kayathar, Thoothukudi District.

5.Murugan

... 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 remove the unauthorized construction made by the 5th respondent in Survey No.278A/8 and 278A/9 situated

Page 1 of 5



W.P.(MD) No.22410 of 2021

at Kadambur road, Kayathar, on the basis of the petitioner's representation dated 18.08.2021 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.P.Banuprasath
For R1 to R4 : Mr.T.Amjadkhan, Government Advocate
For R5 : No Appearance

ORDER

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

This Writ Petition is filed seeking for a direction to the respondents 1 to 4 to remove the unauthorized construction made by the 5th respondent in Survey No.278A/8 and 278A/9 situated at Kadambur road, Kayathar, on the basis of the petitioner's representation dated 18.08.2021 within a stipulated time that may be fixed by this Court.

2.Though notice served on the 5th respondent and the name is printed in the cause list, none appeared for him and so far, no counter affidavit has been filed by him.

3.A perusal of the counter affidavit filed by the 4th respondent shows that the petitioner and his mother filed a suit in O.S.No.22 of 2007 before the learned Sub Judge, Kovilpatti, seeking declaration to declare the sale deed dated



W.P.(MD) No.22410 of 2021

13.08.2011 as only a mortgage deed and the same was dismissed vide judgment dated 30.06.2011. Challenging the same, the petitioner and his mother filed an appeal suit before the learned Principal District Judge, Thoothukudi in A.S.No.7 of 2011 and the same was also dismissed and thereafter, on appeal before this Court, the same was also dismissed. The aforesaid fact has been suppressed by the petitioner at the time of filing this Writ Petition. Further, the 5th respondent had purchased the property measuring 1423.407 sq.ft in S.Nos.278A/8 and 9 of Kayathar Town and insofar as the measurement is concerned, the land has 98.166 sq.ft south - north and therefore, the allegation of the petitioner that plan approval accorded to the 5th respondent was over and above the land purchased by him, is not sustainable.

4.In view of the above, we are of the view that these are all disputed facts and therefore, the petitioner has to workout his remedy before the authority concerned by placing all the relevant revenue records. Hence, we direct the 4th respondent to serve notice to the petitioner as well as the 5th respondent, enabling them to produce all the documents they have and if there is any unauthorized construction, take necessary action for removal of the same. The said exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD) No.22410 of 2021

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5. With the above direction, this Writ Petition stands disposed of. No costs.

[D.K.K., J.] & [R.V., J.]
11.03.2024

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

Yuva

To

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W.P.(MD) No.22410 of 2021

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