



W.P(MD)No.28232 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P(MD)No.28232 of 2024

and

WMP(MD)No.23943 of 2024

M.Thirumal Alagu

... Petitioner

vs.

1. The District Collector,
Sivagangai.

2. The Tahsildhar.
Singampunari,
Sivagangai District.

3. The Executive Officer,
Mallakkottai Village Panchayat,
Sivagangai District.

4. Deepa

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No.1 to 3 to demolish the unauthorized construction made by the 4th respondent in Old S.No.239/1, New S.No.239/13 in Mallakottai Village,



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Singampunari Taluk, Sivagangai District and consequently directing the 3rd respondent to construct "Mini Community Sanitary Complex" in the Un-divided S.No.239/1 within stipulated time frame by this Hon'ble Court.

For Petitioner : Mr.RM.Arun Swaminathan
For R1 to R3 : Mr.P.Thilakkumar, Government Pleader

ORDER

(Order of the Court was made by **M.S.RAMESH, J.**)

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. This writ petition has been filed for a Mandamus, directing the respondents 1 to 3 to demolish the unauthorized construction made by the 4th respondent in Old S.No.239/1, New S.No.239/13 in Mallakottai Village, Singampunari Taluk, Sivagangai District, and consequently directing the 3rd respondent to construct "Mini Community Sanitary Complex" in the Un-divided S.No.239/1 within stipulated time frame by this Court.



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3. The learned counsel appearing for the petitioner would submit that the lands in in Old S.No.239/1 are classified as Sarkar Natham. The 4th respondent had applied for assignment of land to the 2nd respondent and the 2nd respondent has sub-divided the said survey number into S.No.239/13 to an extent of 2 cents and assigned the same to the 4th respondent, despite the fact that the 4th respondent has ancestral property at Sellur, Madurai. Pursuant to such assignment, the 4th respondent is constructing a building in the assigned land without any building plan approval. It is further stated that though there is no rest room facilities in the school and the Panchayat has also requested the 1st respondent to construct the toilet complex in the said survey number, the 2nd respondent has assigned the abovesaid land in favour of the 4th respondent. Hence, the petitioner made a representation dated 10.11.2024, to to the official respondents to cancel the patta issued in favour of the 4th respondent and to stop the unlawful construction by her in the assigned land and finding no heed to it was paid, the petitioner has filed the present writ petition.



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3. Heard the learned counsel appearing for the petitioner and learned Government Pleader appearing for the official respondents.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon him to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of the India and direct them to consider the same within a stipulated time.

5. In the light of the above observations, there shall be a direction to the official respondents herein, to consider the petitioner's representation dated 10.11.2024, on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner, private respondent as well as all other persons, who may be interested in the subject property, within a period of three months from



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the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the concerned respondents to consider the same on its own merits.

6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(M.S.R, J.) (A.D.M.C, J.)
27.11.2024

Index : Yes / No
Neutral Citation : Yes / No
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Sivagangai District.



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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

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ORDER MADE IN
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DATED : 27.11.2024