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WP.No.24532 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.24532 of 2024

and

W.M.P.No.26842 of 2024

Kala

W/o Sagadhevan

...Petitioner

Vs.

1. The District Collector,
Office of the District Collectorate,
Salem District.
2. The Assistant Director,
Town and Country Planning,
Office of the District Collectorate,
Salem Distirct.
3. The Block Development Officer,
Omalur Union Office,
Omalur Taluk,
Salem District.
4. The Tahsildar,
Omalur Taluk Office,
Salem District.
5. Panchayath Secretary,
Thekkampatti Panchayath Office,
Omalur Taluk,
Salem District.



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6. Malakodi,
W/o Late Baskaran

7. Riyash,
So Late Baskaran

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus to direct the 3rd respondent to demolish the unauthorized construction, constructing without building permission and plot approval, situated at Salem District, Omalur Taluk, Thekkampatti Village in S.No.15/4B Sub-Division-Survey No.15/4B4, total extent 18 cents out of 54 cents and S.No.15/4D total extent 0.361/2 cents out of 1.09 cents, as per sections in 56 (2-A) and 57 of the Tamilnadu Town and Country Planning Act, 1971 as well as the G.O.(Ms)No.289, Housing and Urban Development (D 4-1) Department, dated 16.12.2016, and consequently, to fix a stipulated time for considering the petitioner's representation dated 15.07.2024.

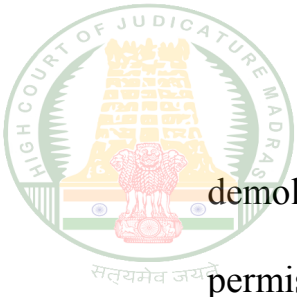
For Petitioner : Mr.Munuraj.G.

For Respondents : Mr.M.Venkateswaran,
Spl.Govt. Pleader
for R1 to R5
Mr.K.Sasindran for R6 & R7

ORDER

(The order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed to direct the 3rd respondent to



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demolish the unauthorized construction, constructing without building permission and plot approval situated at Salem District, Omalur Taluk, Thekkampatti Village in S.No.15/4B Sub-Division-Survey No.15/4B4, total extent 18 cents out of 54 cents and S.No.15/4D total extent 0.361/2 cents out of 1.09 cents, as per sections in 56 (2-A) and 57 of the Tamilnadu Town and Country Planning Act , 1971 as well as the G.Os.(Ms)No.289 Housing and Urban development (D 4-1) department dated 16.12.2016 and consequently, to fix the stipulated time for considering the petitioner's representation dated 15.07.2024.

2. i) The case of the petitioner is that the property in question originally belonged to her grandfather Periyathambi, who died intestate. The said grandfather has two sons namely Palaniayappan and Samundi. Both the sons were enjoying the properties by dividing the property into two equal shares. The said Samundi married Mathammal. They have three daughters namely, Senpagavalli, Chenadra and the petitioner. While the marriage between Samundi and Mathammal was subsisting, one Sivagami married Samundi illegally. Through Sivagami, Samundi have three sons and one daughter. Samundi died on 12.11.2000. Thereafter, no partition was effected in respect of the disputed properties.

ii) The petitioner filed a suit for partition and permanent



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injunction in O.S.No.351 of 2020 before the III Additional District Court at Salem and in the said suit, a preliminary decree was passed on 10.10.2021 stating 9/32 each share for the first wife's legal heirs and 9/32 share to the second wife's legal heirs. Now, the final decree proceedings are pending before the said Court. An Advocate Commissioner was also appointed for inspection of the said properties.

iii) After the preliminary decree, one Palanisamy colluded with the petitioner's family members and executed a sale deed in favour of his wife namely Selvi to the total extent of 56 cents. After execution of the said sale deed, the said Selve executed another sale deed in favour of her daughter and grandson, who are the 6th and 7th respondents herein. The properties remain as agricultural land. However, the 6th and 7th respondents are building an unauthorised house structure without getting proper building permission from the concerned authority. In this regard, the petitioner had sent a representation to the 1st to 5th respondents on 15.07.2024 to stop the said illegal construction. But no action has been taken so far. Hence, the present writ petition.

3. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 5, the learned counsel appearing for the 6th and 7th respondents and perused the



materials available on record.

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4. It is seen from the records that in respect of the subject property, a suit for partition was filed and a preliminary decree was also passed and pending final decree proceedings, the present writ petition has been filed stating that the 6th and 7th respondents are putting up unauthorised construction in the property in dispute. In this regard, the petitioner has also given a representation to the respondents 1 to 5 to stop the alleged unauthorised construction, but no action has been taken so far.

5. The 6th and 7th respondent has filed a counter stating that they have purchased the property for valuable sale construction and they are constructing a house only after getting proper planning permission from the competent authority and the construction is made as per the planning permission.

6. Insofar as the civil dispute is concerned, the petitioner has to work out her remedy before the civil forum, where a final decree proceedings are pending. Insofar as the alleged unauthorised construction made by the 6th and 7th respondents are concerned, it is stated that the petitioner had given a representation dated 15.07.2024 and the same is yet



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to be disposed of and therefore, we are of the view that it would be suffice if the representation of the petitioner is disposed of within a stipulated time.

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7. Without advertng to the merits of the matter, we direct the 2nd and 3rd respondents to consider the representation of the petitioner dated 15.07.2024, after giving opportunity of personal hearing to the petitioner, 6th and 7th respondents, after perusing the documents filed by them, if any, and to take action in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B.,J.] [M.J.R.,J.]
27.06.2025

vsi
Speaking order/Non-speaking order
Neutral Citation: Yes/No

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