



W.P(MD)No.10932 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.10932 of 2025
and
WMP(MD)No.8146 of 2025**

Sethu

... Petitioner

vs.

The Executive Officer,
Nerkuppai Town Panchayat,
Sivagangai District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records related to impugned proceedings in Na.Ka.No. 38/2021 dated 27.03.2025 passed by the respondent and quash the same and consequently direct the respondent to consider the petitioner's representation dated 05.04.2025 for grant of the building plan approval constructed in 1392 sq.ft of land in Sy.Nos.146/1 and 146/2, Nerkuppai Village, Tirupathur Circle, Sivagangai District within the time to be stipulated by this Court.

For Petitioner : Mr.N.Dilip Kumar



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ORDER

(Order of the Court was made by J. NISHA BANU, J.)

Challenging the impugned proceedings passed by the respondent dated 27.03.2025, wherein the respondent directed the petitioner to remove the unauthorised construction within a period of 15 days, the petitioner has filed the present Writ Petition.

2.The subject property and other lands were originally owned by Paianiyandi. After his demise, the patta stood in the joint names, including that of Lakshmanan. Lakshmanan had four sons and one daughter, namely Subbiah, Chandran, Renganathan, Singaram, and Vaili. The petitioner is the son of Sevugan, brother of Lakshmanan and it is their ancestral property inherited from Paianiyandi. One of the other legal descendants of Paianiyandi, viz., Subramanian, is making some rival claims. Initially, the structure on the property had a thatched roof, which was later replaced with a tiled roof. The petitioner borrowed loans and gave a facelift to the existing structure in 2007, covering a small extent of 1352 sq. ft. (ground floor only) on the petitioner's property situated in Survey Nos.146/1 and 146/2, Nerkuppai Village, Thirupathur Circle,

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Sivagangai District. The construction is in conformity with the applicable rules.

However, when the petitioner applied for plan approval, the local body stated that they could not proceed due to the unavailability of an individual patta.

3.On 30.04.2021, L. Subbiah, son of Lakshmanan, L.Chandran, son of Lakshmanan, Adaikammai, wife of the deceased Renganathan, and Amutha sent a representation to the Revenue Divisional Officer, Devakottai, seeking an individual patta for Survey Nos.146/1 & 146/2. On 09.07.2021, the Revenue Divisional Officer forwarded a letter to the Tahsildar, directing him to take necessary action with respect to the issuance of an individual patta. After that communication, no further information or developments were conveyed to the petitioner, and the matter remains pending before the authorities.

4.Meanwhile, one Ramanathan filed a Writ Petition in W.P.(MD) No.8500 of 2021 against the official respondents, seeking the removal of the alleged illegal encroachment and unauthorised construction made by the petitioner in the land in Survey Nos.146/1 & 142/6, having an extent of 80 cents situated in Muranikalam, Nerkuppai Village, Tirupathur Taluk, Sivagangai



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District. This Court, by order dated 25.03.2024, directed the official respondents to take necessary action for the removal of the unauthorised construction within a period of 12 weeks.

5.Subsequently, the Executive Officer/respondent arbitrarily passed the impugned order dated 27.03.2025, directing the petitioner to remove the construction, terming it unauthorised, within a period of 15 days. This was done in violation of the principles of natural justice, without conducting any inquiry and without affording the petitioner an opportunity of hearing. The petitioner had applied to the respondent for building plan approval on 05.04.2025, and the application is still pending. The existing structure conforms to the statutory rules and norms. Aggrieved by the impugned order passed by the respondent, the petitioner has filed the present Writ Petition.

6.The learned counsel appearing for the petitioner submits that the petitioner had applied to the respondent for building plan approval on 05.04.2025, and the same is pending. Hence, he prayed that the impugned notice may be treated as a show-cause notice, to which the petitioner would submit his



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reply, and the pending application dated 05.04.2025 may be considered by the respondent and appropriate orders be passed thereafter.

7.Considering the submissions made by the learned counsel appearing for the petitioner and also considering the facts and circumstances of the case, the impugned order dated 27.03.2025 passed by the respondent may be treated as a show-cause notice by the petitioner. The petitioner is directed to submit his reply, if not already submitted, within a period of four weeks from the date of receipt of a copy of this order. The respondent is directed to consider the same, along with the pending application dated 05.04.2025, and pass appropriate orders on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner and other interested parties, if any, within a period of eight weeks thereafter.



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8. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

[J.N.B.,J.] & [S.S.Y.,J.]
21.04.2025
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NCC : Yes / No
Index : Yes / No

To

The Executive Officer,
Nerkuppai Town Panchayat,
Sivagangai District.



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J.NISHA BANU, J.
and
S.SRIMATHY, J.

ps

ORDER MADE IN
W.P(MD)No.10932 of 2025

DATED : 21.04.2025
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