



W.P.(MD) No.17425 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.17425 of 2017
and
W.M.P.(MD) No.13957 of 2017**

G.R.Valliammal

... Petitioner

/vs./

1.The Director of Town Panchayats,
Kuralagam,
Chennai 600 108.

2.The Assistant Director of Town Panchayats,
Tirunelveli Zone,
Tirunelveli 7.

3.The Executive Officer,
Melagaram Panchayat,
Tenkasi District,
Tirunelveli District.

4.Lingaraj

5.Packiyalakshmi

6.Veerapandian

... Respondents



W.P.(MD) No.17425 of 2017

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.57/2016, dated 06.03.2017, quash the same and direct the 3rd respondent to sanction building plan approval for the petitioner's house property bearing New Door Nos.84 and old Door Nos.37 & 38, Church street Kudiyiruppu, Courtallam Post, Tenkasi Taluk, Tirunelveli District within a time frame fixed by this Court.

For Petitioner : Mr.M.Saravanan
For R1 to R3 : Mr.J.K.Jeyaseelan
Government Advocate
For R4 : No appearance
For R5 & R6 : Mr.J.Parekh Kumar

ORDER

The writ petition has been filed challenging the order passed by the third respondent in Na.Ka.No.57/2016, dated 06.03.2017 and for the consequential direction to the third respondent to sanction the building plan approval for the petitioner's house property bearing New Door Nos.84, old Door Nos.37 & 38, Church street Kudiyiruppu, Courtallam Post, Tenkasi Taluk, Tirunelveli District.



W.P.(MD) No.17425 of 2017

WEB COPY

2. Pursuant to the order dated 27.01.2025, the sixth respondent is present before this Court and the learned counsel for the fifth respondent would submit that the fifth respondent is bedridden and had placed on record the affidavit filed by the respondents 5 and 6.

3. The main primordial contention of the petitioner, on which the impugned order is challenged, is that the fourth respondent, who was holding the office of the third respondent, is the brother of the fifth respondent and therefore, there was a bias. The fourth respondent, who was holding the office of the third respondent and impleaded as a party to this writ petition in his personal capacity, has not chosen to enter appearance and defend the allegation of bias.

4. The learned counsel appearing on behalf of the respondents 5 and 6 would submit that there has been no bias on the part of the fourth respondent. When a claim of bias has been made against a person and that person has been added as a party to the litigation, it is for him to defend that and since he had not chosen to appear, it is assumed that the allegation of bias is true.



W.P.(MD) No.17425 of 2017

WEB COPY

5. However, without entering upon the disputed issues, considering the fact that the fourth respondent is no more holding the office of the third respondent, the impugned order is set aside and the matter is remitted back to the third respondent to decide the same on merits and in accordance with law after affording an opportunity of hearing to the petitioner and the respondents 5 and 6 herein, without being influenced by the order dated 06.03.2017.

6. In fine, the Writ Petition stands allowed, subject to the above directions. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

29.01.2025

To

- 1.The Director of Town Panchayats,
Kuralagam,
Chennai 600 108.
- 2.The Assistant Director of Town Panchayats,
Tirunelveli Zone,
Tirunelveli 7.

4/6



W.P.(MD) No.17425 of 2017

WEB COPY

3.The Executive Officer,
Melagaram Panchayat,
Tenkasi District,
Tirunelveli District.



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W.P.(MD) No.17425 of 2017

K.KUMARESH BABU, J.

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W.P.(MD) No.17425 of 2017

29.01.2025