



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P(MD)No.11929 of 2015

and

M.P(MD)Nos.1 and 2 of 2015

M.Akilan

... Petitioner

Vs.

1.The Director,

Department of Town and Country Planning Development,
No.807, Anna Salai,
Chennai - 600 002.

2.The Assistant Director of Town Planning,
Madurai Region,
Madurai.

3.The Executive Officer,
Batlagundu Town Panchayat,
Batlagundu,
Dindigul District.

4.Dr.Sathish Kumar

5.Dr.Punithamani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to take appropriate action against the construction of the respondents 4 and 5 in S.No.379/3A, at Door Nos.17-13-12, 12A, 12B, 12C, 12D and 12E, Building Society Colony, Gandhi Nagar Main Road, Batlagundu, Dindigul District and demolish the illegal construction made in violation of sanctioned plan.

For Petitioner : No appearance

For Respondents : Mr.C.Selvaraj,
Special Government Pleader for R.1 to R.3

Mr.G.R.Swaminathan for R.4 & R.5

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This writ petition is filed by one Thiru.M.Akilan, 17th Ward Councillor of Batlagundu Town Panchayat, Dindigul District,



seeking a writ of Mandamus to direct the respondents 1 to 3 to take appropriate action against the respondents 4 and 5, who are making constructions in the land situated in S.No.379/3A at Door Nos.17-13-12, 12A, 12B, 12C, 12D and 12E, Building Society Colony, Gandhi Nagar Main Road, Batlagundu, Dindigul District and also to demolish the illegal constructions made by them in violation of the sanctioned plan.

2. The writ petitioner has disclosed himself as has been elected as a Ward Councillor for 17th Ward of Batlagundu Town Panchayat in the elections that were conducted in the year 2011.

3. It is also asserted that Batlagundu Town Panchayat has approved the building plan submitted by the respondents 4 and 5 on 16.12.2013 and technical approval has also been granted vide No.18/2013. The respondents 4 and 5 are required to leave aside certain land of at least 3 meters width on all the four sides of the building, but, it is case of the petitioner that the respondents 4 and 5 have not set apart any such land around the building. It is alleged that the respondents 4 and 5 have departed from the approved building plan and started making constructions, so that, 100 Bedded Hospital can be put in place by them. The petitioner, therefore, appears to have submitted a representation to the respondents 1 to 3 on 25.06.2015 requiring them to take appropriate action against the respondents 4 and 5 and also demolish the illegal constructions made by them in violation of the sanctioned building plan.

4. The writ petitioner being an elected Ward Member of the local Panchayat body, he cannot seek a writ of Mandamus from this Court for the deviations resorted to while constructing the Hospital by the respondents 4 and 5. All such deviations resorted to by the respondents 4 and 5, it is for the local body to proceed against the respondents 4 and 5. The petitioner is a part of the same local body. If his voice is that of a minority in the local body, he cannot use this writ petition as a platform for ventilating his grievance against the local body. This apart, what we have noticed is that the writ petitioner is only interested in the respondents 4 and 5 surrendering or subjecting themselves to the dictates of the writ petitioner. The petitioner has not disclosed as to how he proposed to deal with similar buildings within the local area. Otherwise, there was never any occasion for the writ petitioner to move the writ petition. That would be the reason why there is no representation when this case is called, on behalf of the petitioner and when his name is called, the petitioner was also not present.

<https://hcservices.courts.gov.in/hcservices> 5. We, therefore, find that the present writ petition amounts to abuse of process of this Court. Hence, this writ petition deserves to be dismissed and we, accordingly, dismiss the same,



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without costs. Consequently, the petitions are also dismissed.

the connected miscellaneous

Sd/

Assistant Registrar(P&A)

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/TRUE COPY/

Sub Assistant Registrar

To

1.The Director,
Department of Town and Country Planning Development,
No.807, Anna Salai,
Chennai - 600 002.

2.The Assistant Director of Town Planning,
Madurai Region,
Madurai.

3.The Executive Officer,
Batlagundu Town Panchayat,
Batlagundu,
Dindigul District.

+1cc to M/S.T.Antony Arul Raj, Advocate in SR.No.45913

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rsb

PA/DB/31.08.2016/3P/5C