



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

W.P (MD) No.13032 of 2016
and
W.M.P. (MD) No.9837 of 2016

G.Senthilkumar

: Petitioner

Vs.

The Executive Officer,
First Grade Town Panchayat,
Achanpudur, Tirunelveli District.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent pertaining to its order in Na.Ka.No.45/2016, dated 18.07.2016, and to quash the same and consequently, direct the respondent to grant plan approval to the petitioner by considering the application of the petitioner dated 30.04.2016 for the construction put up by the petitioner in the property in S.No.1/38A, situated at Mekkarai Village, Tirunelveli District.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.Aayiram K.Selvakumar,
Government Advocate

O R D E R

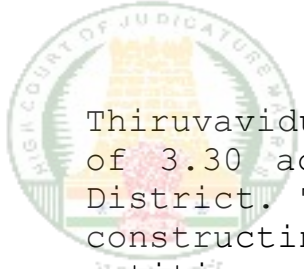
[Order of the Court was made by K.K.SASIDHARAN, J.]

This Writ Petition is directed against the notice dated 18 July, 2016, whereby and whereunder, the Executive Officer, First Grade Town Panchayat, Achanpudur, Tirunelveli District, called upon the petitioner to remove the unauthorized construction within seven days, failing which, it was indicated that further action would be taken in accordance with law.

2. Heard the learned counsel for the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The petitioner was given permission by the



Thiruvavidurai Aathinam to develop the property having an extent of 3.30 acres in Survey No.1/38A, Mekkarai Village, Tirunelveli District. The petitioner, thereafter, submitted an application for constructing a building with an area of 363.86 square metres. The petitioner commenced the construction even before obtaining the planning permit. The respondent, therefore, issued the impugned notice calling upon him to remove the illegal construction within seven days. Feeling aggrieved, the petitioner has come up with this Writ Petition.

4. Notice was issued to the petitioner on 18 July, 2016. The petitioner received the notice on the very same day. The petitioner, for the reasons best known, failed to give a reply to the respondent, indicating the factual position.

5. We have asked the learned counsel for the petitioner as to why the building plan was not produced to show that the plan was in tune with the provisions of the Tamil Nadu District Municipalities Building Rules, 1972 and more particularly, in accordance with the provisions of the Tamil Nadu District Municipalities Act, 1920. The learned counsel submitted that he is in possession of a copy of the plan and he would produce before the Court.

6. There is no dispute that the petitioner was not given planning permission by the local body. Even before obtaining the planning permit, the petitioner commenced the construction. The local body wanted the petitioner to remove the construction within seven days. Nothing prevented the petitioner from submitting a reply to the notice or to take further action in accordance with the provisions of the Tamil Nadu District Municipalities Act, 1920. The petitioner is not entitled for any kind of indulgence, in view of his flouting the Building Regulations.

7. The Supreme Court in **Priyanka Estates International (P) Ltd. v. State of Assam [2010(2) SCC 27]**, observed that unlawful constructions are against public interest and the necessary consequence is demolition. The Supreme Court said:

"55. It is a matter of common knowledge that illegal and unauthorised constructions beyond the sanctioned plans are on rise, may be due to paucity of land in big cities. Such activities are required to be dealt with by firm hands otherwise builders/colonisers would continue to build or construct beyond the sanctioned and approved plans and would still go scot-free. Ultimately, it is the flat owners who fall prey to such activities as the ultimate desire of a common man is to have a shelter of his own. Such unlawful constructions are definitely against the public interest and hazardous to the safety of occupiers and residents of multistoreyed



buildings.....

56. Even though on earlier occasions also, under similar circumstances, there have been judgments of this Court which should have been a pointer to all the builders that raising unauthorised construction never pays and is against the interest of society at large, but, no heed has been given to it by the builders. Rules, regulations and bye-laws are made by Corporations or by Development Authorities, taking in view the larger public interest of the society and it is a bounden duty of the citizens to obey and follow such rules which are made for their benefit. If unauthorised constructions are allowed to stand or given a seal of approval by court then it is bound to affect the public at large. An individual has a right, including a fundamental right, within a reasonable limit, it inroads the public rights leading to public inconvenience, therefore, it is to be curtailed to that extent."

8. The petitioner has no case that the respondent is not entitled to issue notice under Section 216 of the Tamil Nadu District Municipalities Act, 1920. The petitioner wanted this Court to exercise the power of judicial review and to quash the notice. The jurisdiction of this Court in a matter of this nature is very limited. We are, therefore, of the view that there is absolutely no merit in the contention taken by the petitioner.

9. In the upshot, we dismiss the Writ Petition. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To
The Executive Officer,
First Grade Town Panchayat,
Achanpudur, Tirunelveli District.

+1 cc to M/s.S.C.Herold Singh, Advocate in SR.No.39204

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CSL/ARK-PV/02.08.2016 :2p/3c

Order made in
W.P(MD)No.13032 of 2016
Dated: 25.07.2016