



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10526 of 2017

and

WMP(MD) Nos.8035 to 8037, 12454 to 12456 of 2017

S.Vijayalakshmi

... Petitioner

Vs.

1.The Director,
Directorate of Town and Country Planning,
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, 807, Anna Salai,
Chennai - 600 002.

2.The District Collector cum Chairman,
Local Planning Authority,
Virudhunagar District,
Virudhunagar.

3.The Commissioner,
Sivakasi Municipal Corporation,
Sivakasi, Virudhunagar District.

4.Pothiraj

5.Sekar

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the 3rd respondent vide his proceedings in Ka.Vi.No.45/2006/F.1 and L.I.R.No.43/2006/F.1 dated 30.03.2006 and quash the same and consequently direct the 3rd respondent to demolish the unauthorized commercial building constructed by the 4th respondent at T.S.No.111, at D.No.90-A, Ward 'C' Gnanagiri Road, Sivakasi, Virudhunagar District within a stipulated period as fixed by this Court.

For Petitioner : Mr.S.M.Anantha Murugan

For Respondents : Mr.M.Govindan, Spl.G.P. For RR1 & 2

Mr.N.Dilip Kumar for R3

Mr.J.Ashok, for RR4 and 5

**O R D E R****(Order of the Court was made by G.R.SWAMINATHAN, J.)**

This is certainly a strange case arising under the planning laws. The fourth respondent admittedly put up a construction having a ground floor and first floor without any planning or building approval. But, the Commissioner, Sivakasi Municipality gave building approval for the second floor. It is not known as to how an approved second floor can come up over an unapproved first floor and ground floor. Therefore, the impugned building permit came to be challenged at the instance of the writ petitioner.

2. Neither the learned standing counsel for the Municipality nor the learned counsel for the private respondents could defend the action. All that the learned counsel for the fourth respondent would contend is that he has applied for regularization of the building through online on 18.08.2017. In the meanwhile, a cell phone tower was allowed to be erected on the top of the building. The local body has since sealed the premises in question and reported the same before this Court.

3. The third respondent informed this Court that the local authority had initiated appropriate steps against the unauthorised construction of the fourth respondent. Since the illegality of the impugned order is ex-facie evident, we quash the same. Since the fourth respondent has stated that he has applied for regularisation of the construction, the third respondent is directed to give him reasonable time. The third respondent shall await the outcome of the application for regularization submitted by the fourth respondent. The third respondent shall take follow up action thereafter. The building in question shall remain sealed till then.

4. The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Director,
Directorate of Town and Country Planning,
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, 807, Anna Salai,



2.The District Collector cum Chairman,
Local Planning Authority,
Virudhunagar District,
Virudhunagar.

3.The Commissioner,
Sivakasi Municipal Corporation,
Sivakasi, Virudhunagar District.

+2cc to M/S.M.PONNIAH, Advocate SR.No.74995&74996
+1cc to M/S.J.ASHOK, Advocate SR.No.74930
+1cc to M/S.S.M.ANANTHA MURUGAN, Advocate SR.No.74881
+1cc to M/S.N.DILIP KUMAR, Advocate SR.No.74869
+1cc to Special Government Pleader, SR.No. 75361

skm/Arul

MAS/KP/SAR4:12.09.2017:3P-10C

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