



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5907 of 2017

and

W.M.P. (MD) Nos.4678 and 4679 of 2017

WEB COPY

M.R.Nagarajan

... Petitioner

Vs.

1. The Commissioner of Municipal Administration,
Chepauk, Chennai.
2. The Director,
The Town and Country Planning Department,
No.807, Anna Salai,
Chennai - 600 002.
3. The District Collector,
Tuticorin.
4. The Commissioner Municipal Corporation,
Tuticorin.
5. The Member Secretary,
Tuticorin Local Planning Authority,
No.51, West Car Street,
Tuticorin - 628 002.
6. The Superintending Engineer,
The Tamil Nadu Generation and Distribution
Corporation Ltd.,
Tuticorin Electricity Distribution Circle,
131, 132, Ettayapuram Road,
Tuticorin.
7. M/s.AVMM Associate Private Ltd.,
Rep. By its Managing Director,
No.135, Palayamkottai Road,
Thoothukudi - 628 003.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 herein to take necessary action against the 7th respondent for demolishing the illegal and unauthorized constructions that have been put up by the 7th respondent Management (AVM Hospital constructions without prior permission or



approval) in Thoothukudi Corporation, Ward No.4, Block 22, T.S.No.3486 part, 3490 part, and to ensure the safety of General Public.

For Petitioner : Mr.AL.Kannan

For Respondents : Mr.M.Govindan, Spl.G.P.for RR1 to 3 and 5

Mr.S.Sajibino for R4

Mr.G.Prabhu Rajadurai for R7

No appearance for R6

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The writ petitioner seeks a direction for taking action against the seventh respondent, who has put up a hospital in violation of the norms laid down in Tamil Nadu Town and Country Planning Act. He had already submitted a representation dated 08 January 2017 in this regard. The Director of Town and Country Planning forwarded the representation to the Member Secretary, Tuticorin Local Planning Authority. But, no follow up action was taken. Therefore, the present writ petition came to be filed.

2.The Member Secretary, Local Planning Authority, Tuticorin has filed a counter affidavit dated 24 July 2017. It has been mentioned in the said counter affidavit that the multi-storied building put up by the seventh respondent has serious violations. For instance, as regards the minimum setback area to be provided, violation ranges from 36% to 57%. As regards spacing between Blocks, violation is 71.43%. As regards provision of 10% of the site areas for OSR, the violation is 100%. Therefore, the planning authority is bound to take action in the matter. It appears that the Planning Authority has initiated action under the provisions of Tamil Nadu Town and Country Planning Act, 1971, but, that the matter could not be proceeded on account of the interim order granted by this Court in W.P.(MD) No.14576 of 2013. While it is true that when there is any interim order passed by the competent judicial forum restraining the authorities from acting in the matter, the authorities, of course will have to stay their hands and await the outcome of the proceedings. But, in the present case, it is strange that the local body has chosen to file a civil suit in O.S.No.343 of 2010, instead of invoking its power under the Tuticorin Municipal Corporation Act. Therefore, the stay granted in C.R.P.(MD) No.1002 of 2013 and staying the proceedings in O.S.No.343 of 2010 cannot be an impediment for the Planning Authority to proceed in the matter.

3.When the Tuticorin Local Planning Authority has filed counter affidavit stating that the seventh respondent has committed serious violation of Tamil Nadu Multi Stories and Public Building Rules, 1973 and Development Control Regulations, it is



expected that the official respondent herein would act as per law against the seventh respondent herein. It is hardly necessary to emphasise that planning laws and building rules will have to be scrupulously enforced and upheld and that the erring persons ought not to get away with their violations.

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4. This writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

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Tuticorin Electricity Distribution Circle,
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Tuticorin.

- +1 CC to M/s. A.V. RAMANATHAN, Advocate, SR No. 70573
- +1 CC to M/s. S.SAJI BINO, Advocate, SR No. 69598
- +1 CC to M/s. G.PRABHU RAJADURAI, Advocate, SR No. 69996
- +1 CC to M/s. A.L.KANNAN, Advocate, SR No. 70083.
- +1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 70278

SKM/ARUL

PSM/GT/SAR1/24.08.2017/4P/12C

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