



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

WP. (MD) No.3869 of 2018
and
W.M.P. (MD) No.4033 of 2018

S.Velmurugan

... Petitioner

-vs-

1. The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai - 625 002.
2. The Assistant Commissioner,
South Zone, Zone No.4,
Madurai Corporation,
Madurai - 625 002.
3. The Assistant Executive Engineer,
South Zone, Zone No.4,
Madurai Corporation,
Madurai - 625 002.
4. The Executive Engineer,
Tamilnadu Slum Clearance Board,
Jawahar Hospital Opposite,
Madurai - 625 020.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records in connection with the impugned notice dated 13.02.2018 in Na.Ka.No.Ma4A4/9393/2018 passed by the 3rd respondent and consequently quash the same.

For Petitioner	:	Mr.B.Sukumar
For Respondents	:	Mr.T.S.Mohammed Mohideen, standing counsel for RR1 to 3 Mr.P.Mahendran for R4

**ORDER**

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.B.Sukumar, learned counsel for the petitioner and Mr.T.S.Md.Mohideen, learned standing counsel for RR1 to 3 and Mr.P.Mahendran, learned counsel for the fourth respondent.

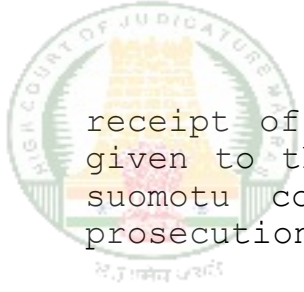
2.The petitioner was granted a subsidy by the Tamil Nadu Slum Clearance Board, the fourth respondent, vide proceedings dated 14.12.2016 to the tune of Rs.2,10,000/- for construction of a house with a plinth area of not less than 360 sq. ft. Though such subsidy was granted, the petitioner was required to obtain planning permission from the respondent Corporation for constructing the house. However, it appears that the petitioner commenced construction without even applying for planning permission and when the matter was brought to the notice of the Court by a neighbour by way of a writ petition, the Court directed the authorities to verify. Pursuant to which, the impugned action has been initiated.

3.On a perusal of the impugned notice shows that the petitioner has constructed the building without obtaining planning approval and therefore, the entire construction as on date is unauthorised. The respondent Corporation have sealed the premises. There is an allegation that inspite of the premises having been sealed, the petitioner is carrying on construction work within the building.

4.The learned counsel for the petitioner would submit that the said allegation is false and it is so because the neighbours are lodging false complaints.

5.Be that as it may, as on date, the building is an unauthorised construction and therefore, the respondent Corporation would be well justified in demolishing the same. However, taking note of the fact that the Slum Clearance Board has granted subsidy to the petitioner and the construction is under the "House For All" scheme, we are of the opinion that no drastic action to be taken at this juncture for demolition of the property. However, the petitioner cannot proceed further with the construction nor occupy the premises or enter upon the premises without obtaining building plan approval. Hence, the impugned notice cannot be quashed nor can it be faulted.

6.For all the above reasons, while rejecting the challenge to the impugned notice, we direct that the respondent Corporation shall not unseal or unlock the premises and simultaneously, the petitioner should not enter the property. The petitioner is directed to file an application for grant of planning permission to the third respondent. The respondent Corporation shall consider the application, inspect the building and pass appropriate orders on such application for planning permission. Decision should be taken on the application within a period of 8 weeks from the date of



receipt of a copy of this order. Any violation of the direction given to the petitioner in this order will be viewed seriously and suomotu contempt action will be initiated apart from criminal prosecution that may be launched against the petitioner.

7. This writ petition is dismissed with the above direction. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

- + 1 CC TO Mr.P.MAHENDRAN, ADVOCATE IN SR No. 51105
- + 1 CC TO Mr.T.S.MOHAMED MOHIDEEN, ADVOCATE IN SR No. 51076
- + 1 CC TO Mr.B.SUKUMAR, ADVOCATE IN SR No. 51798

ARUL

TE/CVC/SAR-4 : 09/03/2018 : 3P/4C

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W.M.P.(MD) No.4033 of 2018
26.02.2018