



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.11.2018**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.[MD]No.12946 of 2018

M.Xavier Irudayaraj

: Petitioner

Vs.

1. State rep. by
The District Collector,
Madurai District, Madurai.
2. The Commissioner,
Corporation of Madurai,
Madurai.
3. The District Elementary Education Officer,
Office of the Elementary Education,
RMS Road, Madurai.

4.S.Ashraf Alikhan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the second respondent to remove the encroachment in the scheme road in T.S.No.1610/2 situated at Ansari Nagar 4th Street, Ward No.17, Mahaboopalyam, Madurai-16 made by the fourth respondent's school and consequently, directing the respondent Nos.1 and 3 to take appropriate action against the fourth respondent's school on the basis of the petitioner's representation dated 19.05.2018.

For Petitioner

: Mr.M.Silambarasan

For Respondent No.1

: Mr.M.Rajarajan,
Government Advocate

For Respondent No.2

: Mr.R.Prabu Ramachandran

For Respondent No.3

: Mrs.S.Srimathy,
Special Government Pleader

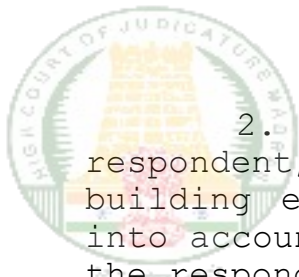
For Respondent No.4

: Mr.R.Vijayakumar

O R D E R

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

The petitioner filed this Writ Petition in *pro bono publico* to direct the Commissioner, Corporation of Madurai, to take action against the fourth respondent and to remove the encroachment.



2. It is the case of the petitioner that the fourth respondent, without obtaining planning permission, constructed a building encroaching upon the public property. This Court, taking into account the submission made by the petitioner, issued notice to the respondents.

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3. The Commissioner, Corporation of Madurai, filed a counter-affidavit dated 13 July, 2018, stating that the fourth respondent is not an encroacher.

4. The learned counsel for the petitioner contended that the fourth respondent constructed a School building without obtaining planning permission.

5. The question as to whether the fourth respondent obtained planning permission is not an issue to be decided in this Writ Petition. It is always open to the petitioner to take up such issues before the appropriate forum.

6. In view of the counter-affidavit filed by the Commissioner, Corporation of Madurai, there is no question of directing the Corporation to take action against the fourth respondent. We are, therefore, of the view that there is no need for a further adjudication of the matter.

7. The Writ Petition is disposed of with the above observation. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The District Collector,
Madurai District, Madurai.

2. The District Elementary Education Officer,
Office of the Elementary Education,
RMS Road, Madurai.

+1cc to SPL.Govt.Pleader, Sr.No.97649
+1cc to Mr.R.Vijayakumar ,Advocate Sr.No.97479
+1cc to MR.S.Karthick Subramanian,Advocate Sr.No.97705
+1cc to Mr.R.Prabu Ramachandran,Advocate Sr.No.97288

SML

KM/PM/SAR1/11.12.2018/2P/7C