



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.13435 of 2018

and

W.M.P(MD)No.12246 of 2018

1.P.Sangeetha Devi

2.G.Shoanraj Jain

... Petitioners

Vs.

1. The Commissioner
Madurai Municipal Corporation,
Madurai.

2. The Town Planning Officer,
Madurai Municipal Corporation,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order in Na.Ka.No.Ma47A3/04382/15 dated 26.05.2018 passed by the first respondent and to quash the same and to restrain the respondents from demolishing the petitioners residential house in Door No.35 situated in American Mission Church Sandhu, TPK Road, Madurai.

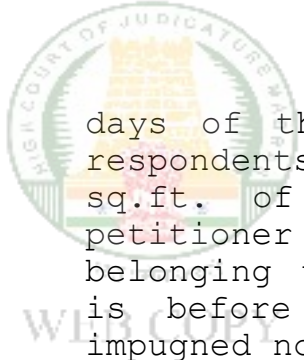
For Petitioner : Mr.V.Santhakumaresan
For Respondents : Mr.T.S.Mohammed Mohideen

ORDER

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

This writ petition is directed against the impugned notice dated 26.05.2018 calling upon the petitioner to give explanation.

2. Learned counsel for the petitioner, assailing the impugned notice, submitted that the petitioner is the owner of the house site, which was purchased through a registered sale deed dated 22.07.2015 bearing Document No.6777/15 having an extent of 928 sq. ft. in S.Nos. T.S.No.1643/3, 1644, 1652/2. He has also obtained building plan approval from the Commissioner, Madurai Corporation in Ref.No.Mathi4/4583/2015 and also obtained planning permission on 04.03.2015 to construct a residential building in the aforesaid survey numbers and only as per the said plan, he has put up construction of three storeyed building. However, the respondents, vide impugned order dated 26.05.2018, informed the petitioner to remove the encroachment made in the said Survey numbers within 21



days of the said notice. However, within the said period, the respondents have started demolition work and thereby demolished 36 sq.ft. of the petitioner's building. It is the case of the petitioner that the petitioner has not even encroached any land belonging to the respondent Corporation. Therefore, the petitioner is before this Court with this writ petition challenging the impugned notice.

3. When the petitioner has not encroached into any land belonging to the respondents, on receipt of the notice issued, as it is the claim of the petitioner that he has not encroached into any land belonging to the respondents, he should have first approached the respondents with a detailed explanation supported with documents and convince the first respondent. Without availing that opportunity, he cannot come to this Court challenging the impugned notice. Therefore, we are not inclined to entertain this writ petition. Accordingly, the writ petition fails and the same is dismissed. However, the petitioner is directed to submit a reply, within a period of two days from today and if any reply is given, the same shall be considered by the respondents forthwith on merits and in accordance with law. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Commissioner
Madurai Municipal Corporation,
Madurai.
2. The Town Planning Officer,
Madurai Municipal Corporation,
Madurai.

+1CC to Mr.V.Santhakumaresan, Advocate, SR.No. 77775

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RR

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