



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE **T.RAJA**

and

THE HONOURABLE MR. JUSTICE **KRISHNAN RAMASAMY**

**W.P. (MD) No.15061 of 2018**

and

**W.M.P. (MD) No.13642 of 2018**

R.Subbiah

... Petitioner

Vs.

1.The District Collector,  
Madurai District - 625 020.

2.The Assistant Director of Town Panchayat,  
Madurai Region, Madurai Collectorate,  
Madurai - 625 020.

3.The Executive Officer,  
Paravai Selection Grade Town Panchayat,  
Madurai District - 625 402.

4.R.Santhi

... Respondents

**PRAYER:** The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent to take necessary action against the unauthorised construction of the fourth respondent in layout No.232/7/85 at Paravai Town Panchayat, bearing Plot No.9 (Door No.7-3-26), Madurai - 625 402 in pursuance of the third respondent's proceedings Na.Ka.No.64/2018, dated 15.06.2018 with reasonable time as may be fixed by this Court.

|                  |                               |
|------------------|-------------------------------|
| For Petitioner   | : Mr.A.B.Natarajan            |
| For Respondents  | : Mr.C.Ramar                  |
| 1 and 2          | Additional Government Pleader |
| For Respondent 3 | : Mr.M.Rajarajan              |
| For Respondent 4 | : Mr.P.Gunasekaran            |

**ORDER**

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

This Writ Petition has been filed seeking Writ of Mandamus directing the third respondent to take necessary action against the unauthorised construction of the fourth respondent in layout



3.A detailed counter affidavit has been filed by the fourth respondent. Mr.P.Gunasekarn, learned Counsel appearing for the fourth respondent submitted that to wreck vengeance against the fourth respondent, the petitioner has come to this Court with the present Writ Petition which is wholly not maintainable. Laying emphasise on Section 200 of the Tamil Nadu District Municipalities Act, 1920, the learned Counsel submitted that when an application seeking planning permission is submitted to authority concerned, he has to take a decision on the said application within a period of 30 days from the date of receipt of such application. In this case, the fourth respondent has submitted her application seeking planning permission on 01.02.2018 before the third respondent but the third respondent has not taken any decision on the said application within a period of 30 days. Therefore, in the event of not taking any decision on the application within thirty days as per Section 200 of the Act, deemed provision under Section 202(2) of the Act will operate. Adding further, he would submit that by virtue of Section 202(2) of the Act, if the council fails to determine within one month from the date of receipt of such written request in respect of grant of approval or permission, such approval or permission shall be deemed to have been given and the applicant also may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act. Therefore, when an application has been filed by the fourth respondent on 01.02.2018, finding no response under Section 200 of the Act and



even after waiting for more than five months, the fourth respondent has sent a reminder on 08.06.2018 to the third respondent enclosing a copy of the site plan of the land on which the building is to be constructed, a plan of the ground plan with each floor elevation and a specification of the work. But, the third respondent even after receipt of the application dated 01.02.2018 and the reminder dated 08.06.2018 slept over the matter. In the meanwhile, the petitioner has also issued legal notice to the fourth respondent on 28.06.2018. After receipt of the said legal notice, the fourth respondent given a representation to the third respondent on 20.08.2018. In spite of the three reminders including the application, the third respondent has failed to look into the request of the fourth respondent to grant planning permission to put up her construction. Therefore, the planning approval is deemed to have been granted to the fourth respondent as per Section 202(2) of the Act. It is pertinent to extract Sections 200 and 202(2) of the Act which reads as under:

**"200.Period within which executive authority is to signify approval or disapproval -**

Within thirty days after the receipt of any application made under Section 197 for approval of a site or of any information or further information required under rules or by-laws, the executive authority shall by written order either approve the site or refuse on one or more of the grounds mentioned in section 203 to approve the site. ....

**202.Reference to council if executive authority delays grant or refusal of approval or permission.- (1) .....**

(2) If the council does not, within one month from the receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act."

4.A perusal of the above provision clearly shows the fourth respondent, having made an application on 01.02.2018 along with a copy of the site plan of the land on which the building is to be constructed, a plan of the ground plan with each floor elevation and section and a specification of the work and also a reminder on 08.06.2018 after a gap of five months, is legally entitled to the benefits of Section 202(2) of the Act, for, the third respondent failed to consider the application made by the fourth respondent within 30 days time as per Section 202(2) of the Act. Once again after two months from the date of reminder, the fourth respondent submitted representation on 20.08.2018. Since the fourth respondent has sought planning approval by submitting application on



01.02.2018 and a reminder on 08.06.2018 followed by one more representation dated 20.08.2018, the legal provision under Section 202(2) will necessarily act against the petitioner and the third respondent. Secondly, the petitioner has no locus standi to question the construction made by the fourth respondent because she has not encroached into his property, therefore, the Writ Petition cannot be maintained.

5. For all these reasons, we are of the considered opinion that by virtue of Section 202(2) of the Act, as the application given by the fourth respondent on 01.02.2018 and the reminder dated 08.06.2018 followed by one more representation dated 20.08.2018 were not considered by the third respondent within the prescribed time, the planning approval sought by the fourth respondent is deemed to have been granted by virtue of Section 202(2) of the Act.

6. In that view of the matter, we do not find any merits in the Writ Petition and the same is dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The District Collector,  
Madurai District - 625 020.
2. The Assistant Director of Town Panchayat,  
Madurai Region, Madurai Collectorate,  
Madurai - 625 020.
3. The Executive Officer,  
Paravai Selection Grade Town Panchayat,  
Madurai District - 625 402.

+1 CC To MR.A.B.NATARAJAN, Advocate SR. NO. 93772  
+1 CC To MR.P.GUNASEKARAN, Advocate SR. NO. 93568  
+1 CC TO The Special Government Pleader SR.NO.93403

**W.P. (MD) No.15061 of 2018**  
**and W.M.P. (MD) No.13642 of 2018**  
30.10.2018

SRM

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