



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM:

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

W.P(MD)No.18594 of 2017
and
W.M.P(MD)No.14985 of 2017

Muthujothi

.. Petitioner

Vs.

1. The District Collector,
Sivagangai District.
2. The Deputy Director,
Town and Country Planning
Sivagangai Zone,
430, Gandhi Street,
Sivagangai.
3. The Special cum Executive officer,
Manamadurai Town Panchayat,
Sivagangai District.
4. Nirupa Rajan Life Care Hospitals
Represented by its owner
Dr.R.Sundar Rajan
S/O.Late.Rathinasamy
Melakarai, By-pass Road,
Manamadurai Town & Taluk
Sivagangai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent nos.1 to 3 to demolish the illegal construction made by the fourth respondent in Melkarai By-pass Road, Manamadurai Town and Taluk Sivagangai District within stipulated time fixed by this Court.

For Petitioner	: Mr.RM.Arun Swaminathan
For R1 and R2	: Mr.D.Muruganandam
	Additional Government Pleader
For R3	: Mr.G.Muthukannan
For R4	: Mr.T.Lajapathi Roy

**ORDER**

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

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The petitioner has filed this writ petition to direct the respondents to demolish the illegal construction made by the fourth respondent. The fourth respondent has constructed a hospital and it appears that several parameters required have not been fulfilled by the fourth respondent. To the said effect, the local planning authority filed a report. However, the Empowered Committee in its meeting, held on 07.02.2018 has passed a resolution number 29 which is to the following effect.

"The committee discussed the subject in detail observed that the applicant's site 379 sqm was acquired by NHAI for formation of Madurai Rameswaram Road, except north side, other three sides river and roads are there which are open spaces. Fire Safety NOC has been obtained and therefore the movement of fire tender and other vehicles can be achieved at case during any emergency.

Hence the committee decided to allow the building subject to the condition to collect penalty at premium FSI."

2. In terms of the above, the committee decided to allow the building, subject to the condition to collect penalty at premium emphasised right, in the light of the subsequent development. If the petitioner is aggrieved, necessarily he has to challenge the approval granted by the committee. Though we could have closed the matter, we wish to express our reservation in the manner in which, the Empowered Committee had taken a decision. The most important aspect of any building, more particularly multi-storied building is fire safety. The rule requires No Objection Certificate to be obtain by the proposed developer.

3. Therefore, No Objection Certificate from the fire safety department can never be post facto (ie) after approval but it is a pre-requisite. Unfortunately, the Empowered Committee consisting of highly qualified I.A.S officer have lose sight of this important factor and has granted relief to the fourth respondent on condition to pay penalty at premium FSI rates.

4. The writ petition stands disposed of with aforesaid



liberty. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

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/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District.
2. The Deputy Director,
Town and Country Planning
Sivagangai Zone,
430, Gandhi Street,
Sivagangai.

+ 1 cc TO Mr.RM.Arun Swaminathan , Advocate in SR No. 51576
+ 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No. 51703
+ 1 cc TO The Special Government Pleader in SR No. 51932

rmi
AE/KKR/SAR3/14.03.2018/3P/6C

ORDER MADE IN
W.P (MD) No.18594 of 2017
and
W.M.P (MD) No.14985 of 2017
27.02.2018