



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 13.03.2018

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

**and**

**THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P(MD)No.21106 of 2017

and

W.M.P. (MD) Nos.17367 of 2017 and 632 of 2018

S.Nagajothi

.. Petitioner

Vs.

- 1.The Commissioner,  
Madurai City Municipal Corporation,  
Arignar Anna Maaligai,  
Tallakulam, Madurai-625 002.
- 2.The Assistant Commissioner,  
Madurai City Municipal Corporation,  
Division-I West Zone,  
Travellers Bungalow Road,  
Madurai-625 0010.
- 3.The Executive Engineer,  
Madurai City Municipal Corporation,  
Town Planning Section,  
Arignar Anna Maaligai,  
Tallakulam, Madurai-625 002.
- 4.T.Philomena

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the impugned order passed by the 1<sup>st</sup> respondent in Mathi 1/041954/2016 dated 02.11.2017 and quash the same as illegal.

For Petitioner : Mr.N.Madhava Govindan

For R1 to R3 : Mr.T.S.Mohamed Mohideen

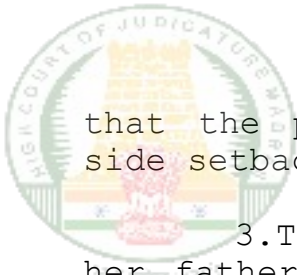
For R4 : Mr.A.Srinivasan

ORDER

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

Heard Mr.N.Madhava Govindan, learned counsel appearing for the petitioner, Mr.T.S.Mohamed Mohideen, learned counsel appearing for the respondents 1 to 3 and Mr.A.Srinivasan, learned counsel appearing for the fourth respondent.

2.The petitioner has filed this writ petition challenging the notice issued by the respondent Corporation in the name of her father. There are two allegations in the impugned notice. One is that the petitioner had constructed the first floor without permission to an extent of 20'x15' feet and the second allegation is



that the petitioner has constructed the building without leaving side setback.

3.The case of the petitioner is that the notice was issued on her father, but now, she is the owner of the property, which has been settled in her favour. Secondly, it is stated that the impugned notice is on account of the complaint lodged by the neighbour of the petitioner / fourth respondent herein, who filed a writ petition in W.P.(MD)No.22193 of 2016, in which, a direction was issued to demolish the unauthorized construction.

4.Photographs produced before this Court clearly shows that on the compound wall, the petitioner has put up a construction, which is impermissible. Even if the area in question is located in a contiguous building zone, minimum side setback has to be left. Without doing so, construction could not have been put up. It is clear that the construction put up by the petitioner is unauthorized, because permission will not be granted to put up a construction on the compound wall without leaving any side setback. Therefore, the question of interfering with the impugned notice does not arise.

5.Hence, we direct the petitioner herself or her father to remove the offending construction within a period of forty days from the date of receipt of a copy of this order, failing which, the respondent Corporation shall remove the same without affecting the stability of the main building and recover the cost of such removal from the petitioner.

6.With the above direction this writ petition is dismissed. No costs. Consequently, W.M.P.(MD)Nos.17367 of 2017 and 632 of 2018 are closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

1.The Commissioner,

Madurai City Municipal Corporation, Arignar Anna Maaligai,  
Tallakulam, Madurai-625 002.

2.The Assistant Commissioner,

Madurai City Municipal Corporation,  
Division-I West Zone, Travellers Bungalow Road,  
Madurai-625 0010.

3.The Executive Engineer,

Madurai City Municipal Corporation,  
Town Planning Section, Argnar Anna Maaligai,  
Tallakulam, Madurai-625 002.

+One cc to Mr.N.Madhava Govindan, Advocate, SR.No.55062

<https://hcservices.ecourts.gov.in/hcservices/>  
+One cc to Mr.A.Srinivasan, Advocate, SR.No.55329

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RL/6C/2p/SKN/RSK/SAR1/3/4/2018

ORDER MADE IN  
W.P(MD)No.21106 of 2017  
13.03.2018