



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.02.2018
CORAM:

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

Writ Petition (MD).Nos.22891 to 22893 of 2017

S.Vasanthira Devi	... Petitioner in W.P.No.22891/2017
G.Saravanan	... Petitioner in W.P.No.22892/2017
Nainarhameed	... Petitioner in W.P.No.22893/2017

Vs.

The Assistant Commissioner,
Zone -2, Madurai Corporation,
Madurai.

... Respondent in all W.Ps.

Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to break open the seal of petitioners' house situated at C.86, C.88, C.90, New H.I.G Colony, Anna Nagar, Madurai.

For Petitioners	: Mrs.B.Asha
For Respondent	: Mr.T.S.Mohammed Mohideen Additional Government Pleader

C O M M O N O R D E R

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

The petitioners have filed these writ petitions seeking for a direction to the respondent to break open the seal of petitioners' houses situated at C.86, C.88 and C.90, New H.I.G Colony, Anna Nagar, Madurai.

2. The petitioners are owners of apartments in Anna Nagar, Madurai and it appears that they have constructed additional rooms in the common area. As a result, the respondent has sealed the premises. While sealing the premises, the old buildings were also sealed and therefore, the petitioners have approached this Court and an interim order was granted to remove the seal in respect of the old construction and put a seal with regard to the new construction put up. The photographs, which were produced by the learned counsel for the petitioners, show that each of the apartment owners have constructed a room in their respective floor and it is in that area which is a side set back area of the apartment complex.



3. The learned counsel appearing for the petitioners would submit that without giving opportunity to the petitioners, sealing has been effected and invariably in all the flats in the same area, such additional constructions have been made and the respondent Corporation has not initiated any action against them, but only action against the petitioners herein and therefore, it is discriminated.

4. The learned Additional Government Pleader appearing for the respondent produced the notice dated 30.10.2017, issued to the petitioners indicating the area of unauthorised construction.

5. Since already the old construction area has been de-sealed, we are of the view that the seal affixed in the new construction area will continue till the decision is taken by the respondent, pursuant to the notice dated 30.10.2017. Therefore, we dispose of the writ petitions, by directing the petitioners to file their reply to the notice dated 30.10.2017, within a period of one week from the date of receipt of a copy of this order, after which the respondent shall conduct a fresh inspection not only to the petitioners' flats but also to all other flats in the area to ascertain the said facts and take appropriate action in accordance with law. If it is found that the encroachment is capable of being regularised, then the petitioners should be directed to file appropriate application before the competent authority for such regularisation. No costs.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

The Assistant Commissioner,
Zone -2, Madurai Corporation,
Madurai.

+One cc to M/s.B.Asha, Advocate, SR.No.50990

+One cc to M/s.T.S.Mohammed Mohideen, Advocate, SR.no.50965

akv

RL/4C/2P/SV/MMS/SAR2/26/3/2018

Writ Petition (MD).Nos.22891 to 22893 of 2017