



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2018

CORAM:

WEB COPY

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

W.P (MD) No.23378 of 2017
and
W.M.P (MD) No.19644 of 2017

P.T.Manoharan

.. Petitioner

Vs.

1. The Commissioner,
City Corporation, Madurai.

2. The Assistant Commissioner,
Madurai City Corporation South Zone No.4,
Behind West Perumal Maistry Street,
Madurai.

3. S.Velmurugan

.. 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 respondents 1 and 2 to take action under Section 56 and 57 of the Town and Country Planning Act, 1971 and Section 282, 296(1) and (2) of the Madurai City Municipal Corporation Act, 1971 on the basis of the petitioner's representation dated 19.07.2017 and 22.10.2017 as against the third respondent for not adhering to the building rules for the construction of the building by the third respondent in Plot No.69 of Venkateshwaranagar, Lion City Extension, Tirupparankundram Village, Tirupparankundram Taluk, Madurai District.

For Petitioner	: Mr.P.Sivachandran
For Respondents 1 and 2	: Mr.R.Murali, Standing counsel.
For Respondent No.3	: Mr.B.Sukumar

ORDER

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



the respondents 1 and 2 and Mr.B.Sukumar, learned counsel appearing for the third respondent.

2.The petitioner seeks for a direction upon the respondents 1 and 2 to take action under Sections 56 and 57 of the Town and Country Planning Act, 1971, against the illegal unauthorised construction put up by the third respondent.

3.It appears that though the building was sealed by the respondent Corporation, there is an allegation that the third respondent broke open the seal and commenced constructions. Photographs produced show that the construction put up by the third respondent is without any set back of all four sides. Therefore, the construction is illegal.

4.It appears that the third respondent has given a revised plan and the Court in W.P(MD)No.3869 of 2018, by order dated 26.02.2018, has directed the Planning Authority to consider the revised plan. On seeing the photographs, we find that when there is no set-back, the question of granting relaxation of the set-back norms, does not arise. Furthermore, when the third respondent has put up construction without even obtaining a planning permission, the plan alleged to have been submitted by him, cannot be termed as a revised plan. Therefore, the building shall continue to remain sealed and should not be released and no construction shall be done by the third respondent, failing which, stringent action will be initiated against him. It is open to the petitioner, to pursue his claim with regard to the plan alleged to have been submitted before the Planning Authority.

5.With the above directions and observation, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

- + 1 CC TO Mr.B.SUKUMAR, ADVOCATE IN SR No. 52793
- + 1 CC TO Mr.R.MURALI, ADVOCATE IN SR No. 52732
- + 1 CC TO Mr.P.SIVACHANDRAN, ADVOCATE IN SR No. 53233

SMN

TE/GT/SAR-3 : 14/03/2018 : 2P/4C