



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**
AND
THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**

W.P. [MD].Nos.20066, 20780, 2855 and 9310 of 2017
and

W.M.P. (MD) .Nos.17067, 16326, 2327, 7089 and 9045 of 2017

W.P. (MD) .No.20066 of 2017:-

Chitra Nursing Home,
No.626, Tenkasi Road,
Rajalapalayam 626 117,
Virudhunagar District,
Rep By.Dr.A.B.Gopala Murugan

: Petitioner

Vs.

1. The Secretary to Government,
Housing & Urban Development Department,
Secretariat, Chennai 600 009.
2. The Director of Town and Country Planning,
Office of the Director of Town and Country Planning,
No.807, Anna Salai, Chennai 600 002.
3. The Deputy Director,
Town and Country Planning,
No.4, Hakkim Ajmalkhan Road/
Chinnachokkikulam, Madurai 625 002.
4. The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.
5. Mr.D.Venkateswaran : Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent dated 08.05.2017 in Na.Ka.No.1786/2017/PA1 and to quash the same and to further direct the fourth respondent to remove the unauthorized constructions.



For petitioner
For respondents 1to3
For Respondent No.4
For Respondent No.5

: Mr.B.Ravi Raja
: Mr.A.K.Baskarapandian
Special Government Pleader
: Mr.N.Dilipkumar
Standing Counsel
: Mr.N.R.Ēlango
Senior Counsel
For Mr.Y.Prakash

W.P. (MD) .No.20780 of 2017:-

D.Venkateswaran

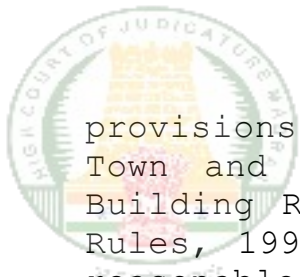
: Petitioner

Vs.

1. The Director of Town and Country Planning,
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, No.807, Anna Salai, Chennai 600 002.
2. The Deputy Director of Town and Country Planning,
No.4, Hakkim Ajmalkhan Road/
Chinnachokkikulam, Madurai 625 002.
3. The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.
4. The Station Officer,
Fire and Rescue Services,
Rajapalayam, Virudhunagar District.
5. Chitra Nursing Home,
No.626, Tenkasi Road,
Rajalalayam,
Virudhunagar District,
Rep By.Dr.A.B.Gopala Murugan.
6. Chitra Hospitals,
No.615, Tenkasi Road,
Rajapalayam, Virudhunagar District,
Rep by Dr.A.B.Chitra

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to forthwith initiate action against the respondent Nos.5 & 6, as contemplated in notice dated 09.12.2016 issued by the respondent No.3, for demolition of the unauthorized construction at Door No.626 and Door No.615, Tenkasi Road, Rajapalayam Town and close the shops put up by the respondent Nos.5 and 6 in gross violation of the petitioner's fundamental right as well as the



provisions of the District Municipalities Act, 1920, Tamil Nadu Town and Country Planning Act, 1971, Multi-storeyed and Public Building Rules, 1973, Bio-Medical Waste [Management and Handling] Rules, 1998 and Tamil Nadu Public Health Act, 1939 etc., within a reasonable time.

WEB COPY

For petitioner	:	Mr.N.R.Ėlango Senior Counsel For Mr.Y.Prakash
For respondents 1,2&4	:	Mr.A.K.Baskarapandian Special Government Pleader
For Respondent No.3	:	Mr.N.Dilipkumar Standing Counsel
For Respondent No.5&6	:	Mr.B.Ravi Raja

W.P. (MD) .No.2855 of 2017:-

Chitra Nursing Home,
No.626, Tenkasi Road,
Rajalapalayam,
Virudhunagar District,
Rep By.Dr.A.B.Gopala Murugan.

: Petitioner

Vs.

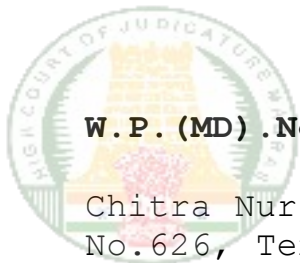
1. The Deputy Director of Town and Country Planning,
No.4, Hakkim Ajmalkhan Road/
Chinnachokkikulam, Madurai 625 002.
2. The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.

3.Venkateswaran

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to implement the instruction order of the first respondent in Na.Ka.No.1872/2016 MM4, dated 25.11.2016 with regard to the unauthorized structure of the third respondent.

For petitioner	:	Mr.B.Ravi Raja
For respondent No.1	:	Mr.A.K.Baskarapandian Special Government Pleader
For Respondent No.2	:	Mr.N.Dilipkumar Standing Counsel
For Respondent No.3	:	Mr.N.R.Ėlango Senior Counsel For Mr.Y.Prakash

**W.P. (MD) .No.9310 of 2017:-**

Chitra Nursing Home,
No.626, Tenkasi Road,
Rajalapalayam,
Virudhunagar District,
Rep By.Dr.A.B.Gopala Murugan.

: Petitioner

Vs.

1. The Director of Town and Country Planning,
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, No.807, Anna Salai, Chennai 600 002.
2. The Deputy Director of Town and Country Planning,
No.4, Hakkim Ajmalkhan Road/
Chinnachokkikulam, Madurai 625 002.
2. The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.
3. D.Venkateswaran

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to consider the representation made by the petitioner on 15.05.2017 and to dispose of the same within a time frame.

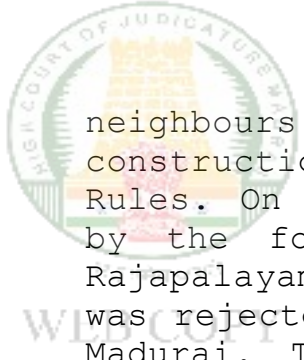
For petitioner	: Mr.B.Ravi Raja
For respondent No.1&2	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondent No.3	: Mr.N.Dilipkumar Standing Counsel
For Respondent No.4	: Mr.N.R.Élango Senior Counsel For Mr.Y.Prakash

COMMON ORDER

[Order of the Court was made by **M.M.SUNDRESH, J.**]

Considering the common issue involved in all the Writ Petitions, they were heard together and the Writ Petitions are disposed of by means of this Common Order.

2. The petitioner in W.P.(MD).No.20066 of 2017 is taken as such and therefore, the petitioner in W.P.(MD).No.20780 of 2017 is taken as respondent. The petitioner and the respondent are



neighbours. The petitioner made a complaint stating that the construction put up by the respondent is contrary to the Building Rules. On the complaint made by the petitioner, action was taken by the fourth respondent, namely, the Municipal Commissioner, Rajapalayam Municipality. The revised plan given by the respondent was rejected by the Deputy Director of Town and Country Planning, Madurai. This was done, after hearing the petitioner also. As against the aforesaid order passed by the Deputy Director of Town and Country Planning, an appeal was filed by the respondent before the Director of Town and Country Planning. The appeal was allowed on two grounds. The first ground is based upon the photographs produced by the respondent to show that the cite is lying in a continuous built up area. The second ground is on the facility provided by the respondent through valet parking. This order is sought to be challenged by the petitioner in W.P.(MD).No.20066 of 2017. The respondent has also filed W.P.(MD).No.20780 of 2017, *inter alia* alleging that even the petitioner is violating the Building Rules. The complaint of the respondent dated 10.10.2017, is pending consideration with the Municipal Commissioner, Rajapalayam Municipality. The said authority has also issued notice to the parties concerned, but, yet to take a decision in the matter.

3. Considering the above, without going into the merits of the case, we are inclined to set aside the order impugned in W.P.(MD).No.20066 of 2017. If this order is construed as an appeal, certainly, the petitioner is entitled to be heard. This is also for the reason that while passing the order under appeal, the petitioner was not heard. In fact, the said order itself was passed at the instance of the respondent. Therefore, looking from any prospective, the petitioner ought to have been heard by the Director of Town and Country Planning, before passing the order dated 08.05.2017.

4. In such view of the matter, the impugned order dated 08.05.2017 shall stand set aside and consequently, the Director of Town and Country Planning, is directed to redo the entire exercise, after issuing notice to the petitioner as well as the respondent, within a period of eight weeks from the date of receipt of a copy of this order.

5. Insofar as the complaint made by the respondent against the petitioner is concerned, the Municipal Commissioner, Rajapalayam Municipality, is directed to pass appropriate orders on the same within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of hearing to the petitioner as well as the respondent.

<https://hcservices.courts.gov.in/hcservices/> result, W.P.(MD).Nos.20066 and 20780 of 2017 are disposed of, on the above terms. In view of the above order, disposing of the Writ Petitions, as stated supra, nothing survives



for consideration in W.P.(MD).Nos.2855 and 9310 of 2017 and accordingly, they are dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

WEB COPY

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Secretary to Government of Tamil Nadu,
Housing & Urban Development Department,
Secretariat, Chennai 600 009.
2. The Director of Town and Country Planning,
Office of the Director of Town and Country Planning,
No.807, Anna Salai, Chennai 600 002.
3. The Deputy Director,
Town and Country Planning,
No.4, Hakkim Ajmalkhan Road/
Chinnachokkikulam, Madurai 625 002.
4. The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.
5. The Station Officer,
Fire and Rescue Services,
Rajapalayam, Virudhunagar District.

+4cc to Mr.B.Ravi Raja, Advocate Sr.No.82636 to 82639

+1cc to Mr.Y.Prakash, Advocate Sr.No.82298

+2cc to Mr.N.Dilipkumar, Advocate Sr.No.82396,82397

NB

VB/RP/SAR2/10.09.2018/6P/13C

COMMON ORDER MADE IN
W.P. [MD] .Nos.20066, 20780, 2855 and 9310 of 2017
05.09.2018