



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.[MD].No.20947 of 2018

and

W.M.P (MD) Nos.18722, 18723 and 20099 of 2018

M.Vishalatchi

: Petitioner

Vs.

- 1.The Director of Town and Country Planning,
The Directorate of Town and Country Planning,
No.100 Anna Salai, Chennai.
- 2.The District Collector,
Sivagangai District,Sivagangai.
- 3.The Member Secretary,
Sivagangai Town and Country Planning Authority,
Sivagangai.
- 4.The Commissioner,
Karaikudi Municipality,
Karaikudi, Sivagangai District.
- 5.T.Periyannan

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to restrain the illegal unauthorized construction being made by the fifth respondent in T.S.Nos.321 and 322, Ward No.4, Block No.8, Sekkalai Road, Karaikudi Town, Sivagangai District and to take action for removal of unauthorized construction already made in the said land in the light of Section 57 of the Tamil Nadu Town and Country Planning Act, 1971 and Sections 199, 205, 216 and 206 of the Tamil Nadu District Municipalities Act, 1920, within the time that may be stipulated by this Court.

For Petitioner

: Mr.M.Mahaboob Athiff for
M/s.Ajmal Associates

For R-1 to R-3

: Mr.V.Anand
Government Advocate

For R-4

: Mr.P.Mahendran

For R-5

: Mr.G.Prabhu Rajadurai

**ORDER**

[Order of the Court was made by R.SUBBIAH, J.]

This writ petition has been filed seeking for issuance of a Writ of Mandamus directing the respondents 1 to 4, to restrain the illegal unauthorized construction being made by the fifth respondent in T.S.Nos.321 and 322, Ward No.4, Block No.8, Sekkalai Road, Karaikudi Town, Sivagangai District and to take action for removal of unauthorized construction already made in the said land in the light of Section 57 of the Tamil Nadu Town and Country Planning Act, 1971 and Sections 199, 205, 216 and 206 of the Tamil Nadu District Municipalities Act, 1920, within a stipulated time.

2. In the affidavit filed in support of the writ petition, it has been averred that the petitioner is residing at Door No.55 of Arun Nagar in Karaikudi. The grievance of the petitioner is that the fifth respondent, who is the owner of the property in S.Nos.321 and 322, Door No.70 to 73 and 28 to 20 at Sekkalai Road, Ward No.4, Block No.8, Karaikudi, Sivagangai District, which is situated adjacent to the petitioner's building, without obtaining planning permission under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, is putting up construction of a multistoried building without leaving any safety distance. Hence, the petitioner has made representations to the official respondents on 27.08.2018, 01.09.2018 and 06.09.2018. But, none of the representations were considered. Hence, the petitioner has finally approached this Court by way of this writ petition.

3. At the time of admission, this Court has granted an interim order of status-quo on 05.10.2018. Now, the fifth respondent has filed a petition to vacate the interim order of status-quo granted on 05.10.2018. In the affidavit filed in support of that petition, in paragraph No.5, it has been stated as follows:

"5. I submit to the meanwhile I consulted Engineer and on their advice I have instructed to remove the column laid on the eastern side in deviation of the sanction plan. However in view of the status-quo order issued by this Honourable High Court, I am prevented from taking such steps to rectify the deviation. I state that I will remove the column on the eastern side and conduct my building leaving the necessary space."

4. In the above paragraph, the fifth respondent has given an undertaking to remove the column laid on the eastern side in deviation of the sanctioned plan.

5. The learned counsel for the petitioner has also submitted that, if the said undertaking is recorded, that would suffice.



6. In view of the said submissions, without traversing into the other averments made, by recording the above undertaking, this writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar(CS-III)

Sub Assistant Registrar(CS-II)

To

- 1.The Director of Town and Country Planning,
The Directorate of Town and Country Planning,
No.100 Anna Salai,
Chennai.
- 2.The District Collector,
Sivagangai District,
Sivagangai.
- 3.The Member Secretary,
Sivagangai Town and Country Planning Authority,
Sivagangai.
- 4.The Commissioner,
Karaikudi Municipality,
Karaikudi, Sivagangai District.

+1CC to M/s.Ajmal Associates, Advocate, SR.No.94585
+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.94590
+1CC to Mr.P.Mahendran, Advocate, SR.No.94657
+1CC to the Special Government Pleader SR.No.94436

W.P (MD) No.20947 of 2018
08.11.2018

PM

ES/SKN/RSK/SAR 2/14.11.2018/3P/9C