



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2019

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WEB COPY

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**

AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

Writ Petition (MD) No.15339 of 2019

and

W.M.P (MD) No.11915 of 2019

M.Kanagaraman

.. petitioner

Vs.

1.The District Collector,
Trichirappalli,
Trichirappalli District.

2.The Trichy Local Planning Authority,
rep. by its Member Secretary,
No.11, Kajamalai Main Road,
Thamarai Nagar, Kajamalai,
Trichirappalli - 620 023.

3.The Commissioner,
Trichirappalli Municipal Corporation,
Trichirappalli City.

4.The Assistant Commissioner, Ariyamangalam Division,
Trichirappalli Municipal Corporation,
Trichirappalli City.

5.The Junior Engineer, Ariyamangalam Division,
Trichirappalli Municipal Corporation,
Trichirappalli City.

6.The Revenue Divisional Officer,
Trichirappalli, Trichirappalli District.

7.T.Kumaran

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 and 2 to ensure that the building constructed by the 7th respondent in the housing site bearing Door No.7 comprised in T.S.No.283, New Ward No.P, Block No.36, Alanganathapuram Main Road, Tharanallur, Trichirappalli City Corporation Limits is as per the



approved building plan and further directing the respondents 1 to 6 to cause demolition of the excess of the construction made by the 7th respondent in violation of the approved building plan No.086/BL/2018/01374 issued by the Assistant Commissioner of Trichirappalli City Municipal Corporation and Plan permission No.154/2018/F1 ariya dated 04.10.2018 granted by Local Planning Authority, Trichirappalli.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.M.Karuppasamy
Govt. Advocate
(for R1, R2 & R6)
Mr.N.Anandakumar (for R7)
Mr.N.S.Karthikeyan (for R3 to R5)

O R D E R

[Order of the Court was made by K.RAVICHANDRABAABU, J]

The petitioner seeks for a Mandamus directing the respondents 1 and 2 to ensure that the building constructed by the 7th respondent in the housing site bearing Door No.7 comprised in T.S.No.283, New Ward No.P, Block No.36, Alanganathapuram Main Road, Tharanallur, Trichirappalli City Corporation Limits is as per the approved building plan and further directing the respondents 1 to 6 to cause demolition of the excess of the construction made by the 7th respondent in violation of the approved building plan No.086/BL/2018/01374 issued by the Assistant Commissioner of Trichirappalli City Municipal Corporation and Plan permission No.154/2018/F1 ariya dated 04.10.2018 granted by Local Planning Authority, Trichirappalli.

2.Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1, 2 and 6 and the learned counsels appearing for the respondents 3 to 5 and 7.

3.The petitioner claims to be the owner of property bearing Door No.6A comprised in Old T.S.No.3841/1 and New T.S.No.282, New Ward No.P, Block No.36, Alanganathapuram Main Road, Tharanallur, Trichirappalli. It is stated that the 7th respondent has purchased a property bearing Door No.7 comprised in T.S.No.283, New Ward No.P, Block No.36, Alanganathapuram Main Road, Tharanallur, Trichirappalli and had demolished old structure put up therein and sought for building plan approval from the Tiruchirappalli City Municipal Corporation for constructing a new building with ground and first floor. It is further stated that the 4th respondent granted approval for the building plan furnished by the 7th respondent. It is the grievance of the writ petitioner that when the approval was granted to construct the building measuring to an extent of 513.63 sq.ft in the ground floor, the 7th respondent has



made construction in excess of the area owned by him and is now constructing ground floor to an extent of 1120 sq.ft., by encroaching the public road on the front side of the building. Therefore, the writ petitioner sent a representation on 06.06.2019 to the authorities concerned and subsequently, filed the present writ petition with the relief as stated supra.

4. After notice, this matter is taken up for hearing today.

5. The learned counsel appearing for the 3rd respondent corporation submitted that already a notice dated 06.06.2019 under Section 296(1 & 2) of Tiruchirapalli Corporation Act, 1994 was issued to the 7th respondent and therefore, action has been initiated against the 7th respondent for demolishing the unauthorized constructed portion. Therefore, he submitted that it is for the 7th respondent to give his explanation to the said notice so as to enable the third respondent to pass final order on merits and in accordance with law. He has also produced a copy of the said notice, dated 06.06.2019.

6. The learned counsel appearing for the 7th respondent is not disputing the above said fact, namely, issuance of notice, dated 06.06.2019.

7. When such being the factual position, especially when it is seen that the 3rd respondent has already initiated action against the 7th respondent, by issuing the notice, dated 06.06.2019, it is for the 7th respondent to give his explanation to the said notice so as to enable the 3rd respondent to pass final order.

8. Accordingly, this writ petition is disposed of, by directing the 3rd respondent to complete the enquiry and pass final order after hearing the petitioner as well as the 7th respondent. The 7th respondent is directed to give his explanation to the said notice, if any, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the 3rd respondent shall pass final order within a period of four weeks thereafter. Till an order is passed by the 3rd respondent, the 7th respondent is directed not to put up any further construction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

skn

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To

- 1.The District Collector,
Trichirappalli,
Trichirappalli District.
- 2.The Member Secretary,
Trichy Local Planning Authority,
No.11, Kajamalai Main Road,
Thamarai Nagar,
Kajamalai,
Trichirappalli - 620 023.
- 3.The Revenue Divisional Officer,
Trichirappalli,
Trichirappalli District.

+1CC TO MR.N.ANANDAKUMAR, Advocate Sr. No.79907
+1CC TO MR.N.S.KARTHIKEYAN, Advocate Sr. No.79809
+1CC TO MR.A.RAHUL, Advocate Sr. No.80085
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.79949

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SE (CO)

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