



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P. (MD)No.25624 of 2019 and 7067 of 2020
and W.M.P. (MD) Nos. 6507 and 6508 of 2020

W.P. (MD)No.25624/2019

K.Muthulakshmi

: Petitioner

Vs.

1.The District Collector
Tirunelveli District,
Tirunelveli.

2.The District Collector,
Tenkasi District,
Tenkasi.

3.The Member Secretary
Tirunelveli Local planning Authority
Xavier Colony, Bye-pass Road
Tirunelveli.

4.The Commissioner
Tenkasi Municipality
Tenkasi.

5.The Tahsildar,
Tenkasi Taluk
Tenkasi.

6.Sankari

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents 1 to 5 to remove the unauthorized construction, constructed by the 6th respondent on the basis of the representation given by the petitioner dated 12.09.2019.

For Petitioner

: Mr.G.Thiruvarutselvam



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W.P.(MD)No.25624/2019 & 7067/2020

For Respondents

: Mr.V.R.Shanmuganathan
Special Government Pleader
for R1 to R3 & R5
Mr.P.Athimoolapandian for R4
Mr.J.Anandkumar for R6
for Mr.S.Manikandan

W.P. (MD) No.7067/2020

Sangari

: Petitioner

Vs.

- 1.The District Collector
Tirunelveli District,
Tirunelveli.
- 2.The District Collector,
Tenkasi District,
Tenkasi.
- 3.The Member Secretary
Tirunelveli Local planning Authority
Xavier Colony, Bye-pass Road
Tirunelveli.
- 4.The Commissioner
Tenkasi Municipality
Tenkasi.
- 5.The Tahsildar,
Tenkasi Taluk
Tenkasi.

6.K.Muthulaksmi

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records relating to the impugned notice vide U.A.C.No.1/2020 dated 23.06.2020 issued by the 4th respondent and quash the same.

For Petitioner

: Mr.S.Manikandan

For Respondents

: Mr.V.R.Shanmuganathan
Special Government Pleader
for R1 to R3
Mr.P.Athimoolapandian for R4



COMMON ORDER

(Order of the Court was made by P.N.PRAKASH, J)

W.P. (MD) No.7067/2020

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It is the case of the petitioner that she has built a house measuring 2180 sq. ft. In S.No.1406/2B1, Tenkasi Village, corresponding to New Survey No.37, TS.No.109 Tenkasi Town. The fourth respondent has issued a notice dated 23.06.2020 directing her to demolish the said house within three days from the receipt thereof. Challenging the said notice, Shankari has filed the present writ petition.

2. Heard the learned counsel for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader for the respondents 1 to 3 and 5 and Mr.Athimoolapandian, learned counsel for the fourth respondent Municipality.

3. On a perusal of the impugned notice dated 23.06.2020, it is obvious to us that a printed format has been used as a show cause notice inasmuch as in the last line, it is stated as follows:

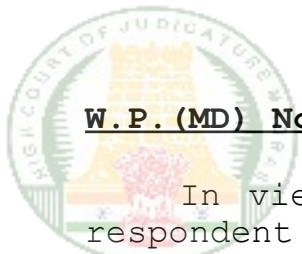
“இந்த உத்தரவை ஏன் ஊர்ஜிதம் செய்யக்கூடாது என்பதற்கு
தகுந்த முகாந்திரம் 3 தினங்களுக்குள் காட்ட வேண்டுமென்று
உங்களுக்கு தெரிவிக்கப்படுகிறது.”

4. The learned counsel for the petitioner contended that no opportunity was given to the petitioner before the order dated 23.06.2020 was passed. He further contended that action was taken against the petitioner based on the complaint given by one Ms.K.Muthulakshmi, who followed it up by filing a writ petition in W.P.(MD) No.25624/2019 for a mandamus to the authorities to demolish her house on the ground that it is an unauthorised construction.

5. There appears to be sufficient force in the submission of the learned counsel for the petitioner, inasmuch as the impugned show cause notice appears to be a predetermined order.

6. The learned counsel for the fourth respondent Corporation fairly conceded the position, but stated that the impugned notice could be treated as a show cause notice and opportunity can be given to the petitioner to give her explanation.

7. In view of the above, the impugned notice dated 23.06.2020 shall be treated as a show cause notice and four weeks time is granted to the petitioner to give her explanation to the authorities as to why her building should not be demolished. Thereafter, the fourth respondent can pass appropriate orders on merits.



W.P. (MD) No.25624/2019

In view of the fact that action has been taken by the fourth respondent on the complaint of Ms.K.Muthulakshmi, W.P.(MD) No. 25624/2019 has become infructuous and therefore, the same stands dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The District Collector
Tirunelveli District,
Tirunelveli.
- 2.The District Collector,
Tenkasi District,
Tenkasi.
- 3.The Member Secretary
Tirunelveli Local planning Authority
Xavier Colony, Bye-pass Road
Tirunelveli.
- 4.The Commissioner
Tenkasi Municipality
Tenkasi.
- 5.The Tahsildar,
Tenkasi Taluk
Tenkasi.

**Order made in
W.P. (MD) Nos.25624/2019 and 7067/2020**

Dated: 30.06.2020

SPU (08.07.2020) 4P-6C