



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2018

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

Rev.Aplw(MD)No.23 of 2018
in W.P.(MD)No.21106 of 2017
and W.M.P.(MD)No.11301 of 2018

S.Nagajothi

.. Petitioner

Vs.

1. The Commissioner,
Madurai City Municipal Corporation,
Arignar Anna Maaligai,
Tallakulam,
Madurai 625 002.

2. The Assistant Commissioner,
Madurai City Municipal Corporation,
Town Planning Section,
Arignar Anna Maaligai,
Tallakulam, Madurai 625 002.

3.The Executive Engineer,
Madurai City Municipal Corporation,
Town Planning Section,
Arignar Anna Maaligai,
Tallakulam, Madurai 625 002.

4. T.Philomena

.. Respondents

Prayer : The Review Application filed under Section 114 of the Civil Procedure Code seeking to review the order passed in W.P.(MD) No.21106 of 2017 dated 13.03.2018.

Prayer in WP(MD). 21106/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari to call for the records of the impugned order passed by the 1st Respondent in Mathil/041954/2016 dated 02.11.2017 and quash the same as illegal.



For Petitioner : Mr.Rajarajan

ORDER

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

Heard Mr.M.Rajarajan, learned counsel appearing for the petitioner through Videoconferencing.

2. This review application has been filed to review the order and direction in W.P.(MD)No.21106 of 2017 dated 13.03.2018. The operative portion of the order reads as follows :

"4. Photographs produced before this Court clearly shows that on the compound wall, the petitioner has put up a construction, which is impermissible. Even if the area in question is located in a contiguous building zone, minimum side setback has to be left. Without doing so, construction could not have been put up. It is clear that the construction put up by the petitioner is unauthorized, because permission will not be granted to put up a construction on the compound wall without leaving any side setback. Therefore, the question of interfering with the impugned notice does not arise.

5. Hence, we direct the petitioner herself or her father to remove the offending construction within a period of forty days from the date of receipt of a copy of this order, failing which, the respondent Corporation shall remove the same without affecting the stability of the main building and recover the cost of such removal from the petitioner."

3. Learned counsel for the review petitioner vehemently contended that in paragraph 3 of the order, this Court has observed that there is a direction in W.P.(MD)No.22193 of 2016 to demolish the unauthorized construction. We have perused the said order and we find that in the said order there was a direction to consider the representation.

4. Be that as it may, we had considered the case of the petitioner and in paragraph 4, we have recorded that the construction put up by the petitioner was without giving minimum side setback. Unless and until, the petitioner takes a stand that there is no unauthorized construction, the question of retaining the structure does not arise. If according to the petitioner, she is not required to remove the construction, it is for the respondent Corporation to take appropriate action, for which, we have made certain observations in paragraph 5 of the order.



5. In our considered view no ground is made out to review the order. Hence, this review application is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Commissioner,
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Arignar Anna Maaligai,
Tallakulam, Madurai 625 002.
2. The Assistant Commissioner,
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Town Planning Section,
Arignar Anna Maaligai,
Tallakulam, Madurai 625 002.
3. The Executive Engineer,
Madurai City Municipal Corporation,
Town Planning Section,
Arignar Anna Maaligai,
Tallakulam, Madurai 625 002.

gg

SS/BK/SAR 3/02.01.2019/3P/4C

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