

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.Nos.17461 and 17467 of 2020
and
WMP.Nos.21652 of 2020

M.Malarkodi ... Petitioner in W.P.No.17461/2020

K.Kanageshwari ... Petitioner in W.P.No.17467/2020

Versus

1. The District Collector,
Krishnagiri,
O/o. District Collector,
Krishnagiri District.
2. The Block Development Officer,
Krishnagiri,
O/o. Block Development officer,
Krishnagiri District.
3. The President,
Kattiganapalli Panchayath,
Krishnagiri Union, Krishnagiri.
4. The Tamilnadu Housing Board,
Hosur Housing Unit,
Rep. By its Manager- Marketing & Services,
Hosur-635 109.
5. V.Vengadesan ... Respondents in both W.Ps.

Common Prayer in both W.Ps. - Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to stop the unauthorised construction put up by the 5th respondent deviating from the original plan in Na.Ka.No.01/2019-2020 dated 21.05.2020 issued by the 3rd respondent in pursuance to the notice of deviation issued by the 3rd respondent to the 5th respondent, by considering the representation dated 19.10.2020.

In both W.Ps.

For Petitioner : Mr.A.Tamilvanam

For Respondents : Mr.S.Kamalesh Kannan,
Govt. Advocate for R1 to R3

Mr.R.Bharath Kumar for R4

Mr.C.Jagadish for R5

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.
through video conferencing]

By consent, these writ petitions are disposed of by this common order, as the petitioners, who are neighbours of the private respondent/fifth respondent, seem to have aggrieved by the alleged unauthorised construction put up by him.

2. Mr.A.Tamilvanam, learned counsel appearing for the petitioners would submit that the private respondent, who is also an officer in service in the Government of India, in utter disregard and violation of the planning permission, has dug a pit and put up a compound wall adjacent to their premises and since the representation submitted by them to the respondents 1 to 3 has failed to invoke any kind of response, came forward with these writ petitions.

3. Mr.S.Kamalesh Kannan, learned Government Advocate appearing for the official respondents would submit that in respect of the alleged violation, notice has been issued on 06.10.2020 by the third respondent and depending upon the response of the private respondent, further proceedings would follow.

4. Mr.C.Jagadish, learned counsel appearing for the fifth respondent would submit that admittedly, planning permission was obtained and during the subsistence of planning permission, soil test was done before constructing the premises and in the light of the said report, a suggestion was given to put up pile foundation and an advice was given that due to cost involved in pile foundation, raft foundation will be the suitable alternative where horizontal beams will be closely placed and the entire beams will be reinforced by concrete so that there will not be any undulation or sinking at any point of time and accordingly, retention walls were laid and alleging as if the fifth respondent has attempted to put up unauthorised construction, the present writ petitions came to be filed. It is the further submission of the learned counsel appearing for the fifth respondent that on 23.11.2020, the planning permission was cancelled, which was received by the fifth respondent on 25.11.2020 and on

10.12.2020, he has submitted application for revised planning permission to the third respondent and though under Section 220(2) of the Tamil Nadu Panchayats Act, 1994, there is a deemed approval if no orders have been passed, the fifth respondent, being a law abiding citizen, waited for the response of the concerned official respondents and therefore, prays for dismissal of these writ petitions.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. In the light of the stand taken by the fifth respondent in the counter affidavit coupled with the fact that the fifth respondent has also moved the concerned authorities for obtaining revised planning permission in the light of cancellation of earlier planning permission and that apart, the official respondents concerned have also issued notice dated 06.10.2020 to the fifth respondent, pointing out certain violations, no further orders are necessary in these writ petitions.

7. In the light of the plea made by the learned counsel appearing for the fifth respondent that the application for revised planning permission was submitted to the third respondent on 10.12.2020, the third respondent is directed to consider the application for revised planning permission submitted by the fifth respondent and dispose of the same in accordance with law as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order / uploading of order in the website and communicate the decision taken, to the fifth respondent.

8. In the result, these writ petitions are closed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

Jvm

To

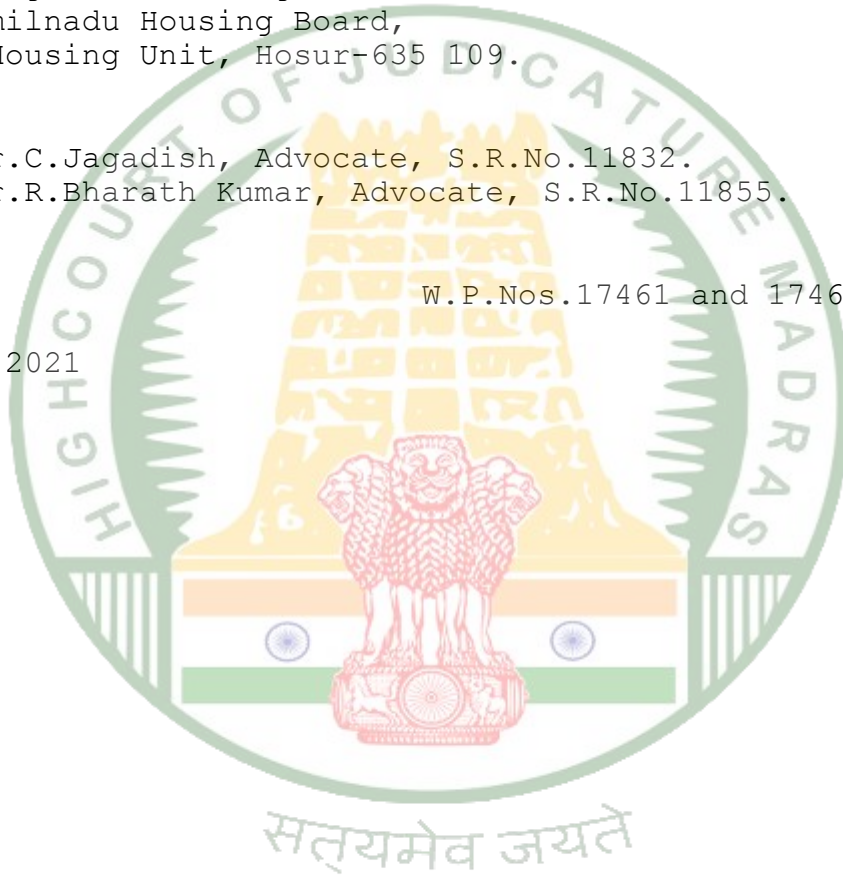
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The Tamilnadu Housing Board,
Hosur Housing Unit, Hosur-635 109.

+1cc to Mr.C.Jagadish, Advocate, S.R.No.11832.
+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.11855.

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PMK (CO)
CSR 17.03.2021



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