



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2021

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THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.6624 of 2021

Mr.P.Thangamani

... Petitioner

Vs.

- 1.The District Collector,
District Collector Campus,
Kanyakumari District.
- 2.The Director,
Directorate of Town and Country Planning,
No.807, Anna Salai, Chennai - 600 002.
- 3.The Executive Officer,
O/o. The Executive Officer,
Idaikodu Town Panchayat,
Kanyakumari District.
- 4.The Member Secretary,
Tuticorin Local Town Planning Authority,
Urban Town Planning Department,
Tuticorin Municipal Corporation,
Palayamkottai Road,
Kanyakumari District.
- 5.The Deputy Tahsildar,
Vilavancode,
Kuzhithurai,
Kanyakumari District.
- 6.P.P.M. Higher Secondary School,
Rep. by its Correspondent,
Anducode,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents No.1 to 5 to initiate appropriate action against the Respondent No.6 for making unauthorized construction in P.P.M. Higher Secondary School by considering the Petitioner's Representation dated 05.12.2019 and reminder representation dated 07.01.2020 within the time period stipulated by this Hon'ble Court.

For Petitioner : Mr.G.Anto Prince

For Respondents 1 to 5 : Mr.R.Baskaran

Standing Counsel for Government

For Respondent No.6 : Mr.M.P.Hari Prasad

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**ORDER****(Order of the Court was made by T. S. SIVAGNANAM, J.)**

Heard Mr.G.Anto Prince, learned counsel for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government, appearing for respondent Nos.1 to 5 and Mr.M.P.Hari Prasad, learned Standing Counsel for respondent No.6.

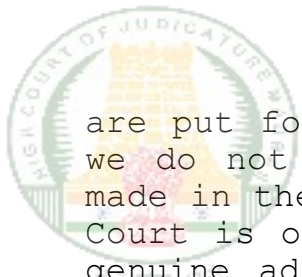
2.The petitioner seeks for a direction upon the Respondent Nos.1 to 5 to initiate appropriate action against the Respondent No.6 for making unauthorized construction in P.P.M. Higher Secondary School by considering the petitioner's representation dated 05.12.2019, and reminder representation dated 07.01.2020 within a time frame.

3.A counter affidavit has been filed by the Assistant Director, District Town and Country Planning Authority Kanniyakumar, wherein it is stated that the 6th respondent has not obtained any permission for putting up the construction.

4.From the materials placed before this Court by the 6th respondent, it is seen that permission was granted by the Executive Officer of Idaikodu Town Panchayat as early as on 17.11.2015 to remove the existing structure as it has become old and has given no objection for putting up a new construction. The Fire and Rescue Department has also given no objection on 23.11.2015 and subsequently, the petitioner has given an application to the third respondent praying for building permission for the additional construction. However, he was advised to file the same directly before, the Joint Director, Town and Country Planning, Tirunelveli. Accordingly, the petitioner has submitted the application during June, 2016. The application was not processed. Subsequently, the Respondent No.6 submitted his application through online on 11.12.2019 to the Directorate of Town and Country Planning and till date the same has not been disposed. Subsequently, one more application has been submitted by the petitioner on 03.03.2021, which is also through online. Thus, it is not the case of the petitioner that he has not applied for grant of building plan approval.

5.However, the larger question that would arise for consideration is as to whether the petitioner could have proceeded with the construction of building even without approval. Under the Tamil Nadu District Municipalities Act, 1920 in terms of Section 202 (2), if the application is not refused or granted permission within one month, then it is deemed to be granted. However, it is not clear whether the provision will apply to the building put up by the 6th respondent.

6.These are the all the matters concerning the allegations made by the petitioner against the 6th respondent in respect of the construction of the school building. From the counter affidavit filed by the 6th respondent, we find that there is deep enmity between the petitioner and the 6th respondent and several averments



are put forth by the 6th respondent in the counter affidavit, which we do not propose to record in this Writ Petition. The averments made in the counter affidavit remain uncontradicted. Therefore, this Court is of the view that this Public Interest Litigation is not a genuine adjudication and it is filed due to the prevailing enmity between the petitioner and the 6th respondent and at the instance of the petitioner we are not inclined to issue any direction in this Writ Petition. We permit the 6th respondent to pursue his application for grant of building plan approval before the Directorate of Town and Country Planning. The above facts may be brought to the Assistant Director, District Town and Country Planning, by the 6th respondent and the copies of the applications made for building plan permission shall be submitted to the Assistant Director for record purpose.

7.The Writ Petition stands dismissed with the above observations. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
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2. The Director,
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5. The Deputy Tahsildar,
Vilavancode,
Kuzhithurai,
Kanyakumari District.

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-21155[F]
dated 05/07/2021)

+1 CC to M/s.M.P.HARIPRASAD, Advocate (SR-21297[F]
dated 06/07/2021)

W.P. (MD) No. 6624 of 2021
02.07.2021

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RC (13.07.2021) 4P 8C