



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 01.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD)No.8306 of 2021
(Through Video Conferencing)

S.Vasantha

... Petitioner

Vs.

1.The Director

The Directorate of Town and Country Planning
807 Annasalai
Chennai.

2.The Commissioner

Madurai Corporation,
Aringnar Anna Maligai
Tallakulam
Madurai - 625 002.

3.The Local Planning Authority

4 Hakkim Amalkhan Road,
Chinna Chokkikulam
Madurai - 625 002.

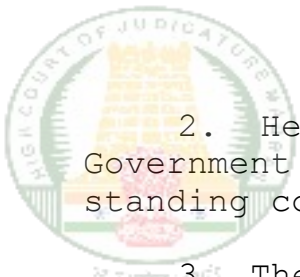
... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent to consider the petitioner's representation dated 16.02.2021 in accordance with law within the time stipulated by this Court and thereby grant permission to the petitioner to reconstruct the petitioner's house in S.No.85/6 situated at Thiruppalai Village, Kamalaram Nagar, Madurai District.

For Petitioner : Mr.P.R.Prithviraj
For Respondents : Mr.R.Sureshkumar for R1&3
Government Advocate
Mr.R.Murali for R2

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first respondent to consider the representation made by the petitioner on 16.02.2021, wherein, the petitioner has sought for granting permission to reconstruct the house in the subject property.



2. Heard the learned counsel for the petitioner, learned Government Advocate for the respondents 1 and 3 and the learned standing counsel for the 2nd respondent.

3. The petitioner had put up a construction in S.No.85/6 in Plot No.21 at Thiruppalai Village, Kamalaram Nagar, Madurai District. This construction became a subject matter of dispute on the ground that it is unauthorized. A writ petition came to be filed before this Court in W.P.(MD) No.25220/2019 by one Srinivasan seeking for a direction to the second respondent Corporation to remove the unauthorized construction put up by the petitioner.

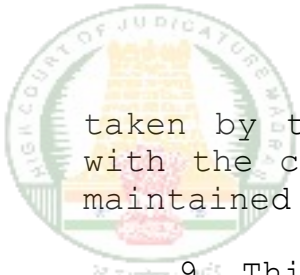
4. This Court, by an order dated 27.11.2019, directed the second respondent Corporation to conduct an inspection and if it is found to be unauthorized construction to stop the construction activity and to lock and seal the premises and to take further action in accordance with law. Accordingly, the respondent Corporation proceeded further to direct the petitioner to stop the construction, failing which, action will be initiated in accordance with law. It is stated that the petitioner thereafter stopped putting up any construction.

5. According to the petitioner, the main deviation that was pointed out was that there was no sufficient side set back. Therefore, the petitioner purchased the adjoining land in S.No.85/6 Plot No.22.

6. The petitioner by virtue of purchasing the adjoining plot claims that he will be able to provide sufficient side set back for the construction and accordingly, she will be able to reconstruct her house after obtaining proper permission. The petitioner, therefore, made a representation to the first respondent on 16.02.2021 seeking for permission to consider the alternate plan and to grant approval. Since the same was not considered, the present writ petition has been filed before this Court.

7. The petitioner has been stopped from putting up any further construction by the second respondent Corporation pursuant to the order passed by this Court. The petitioner now wants to submit an alternate plan and proceed further with the construction. This alternate plan was submitted by the petitioner based on the purchase of the adjacent plot, which according to the petitioner will satisfy the side set back requirements.

8. The petitioner is directed to submit a fresh application before the first respondent along with alternative plan and the first respondent, on receipt of the same, shall consider the application strictly in accordance with the relevant Rules and take a decision within a period of eight weeks from the date of receipt of the application from the petitioner. Depending upon the decision



taken by the first respondent, the petitioner can proceed further with the construction. Till then, the present status quo shall be maintained by the petitioner.

9. This writ petition is disposed of with the above directions.
No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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

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4 Hakkim Amalkhan Road,
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+1 CC to M/s.R.MURALI, Advocate (SR-20821[F] dated 01/07/2021)

+1 CC to M/s.SPL GP (SR-21056[F] dated 02/07/2021)

W.P. (MD)No.8306 of 2021

01.07.2021

SSS(CO)

TR(09.07.2021) 3P 6C