



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P (MD)No.8955 of 2021

and

W.M.P (MD)No.6753 of 2021

R.Daveburman

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Executive Officer,
Illuppur Selection Grade Town Panchayat,
Illuppur, Pudukkottai District.

3.Babu

4.Ramesh

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to take action under Section 216 of the Tamil Nadu District Municipalities Act, 1920 and to remove the unauthorized construction made by the third and fourth respondents from putting up any construction in S.F.No.368/13 with an extent of 0.00.05 ares in (1.25 cents) in Illuppur Village and Illuppur Taluk, Pudukkottai, also initiate Prosecution under Section 317 of the Tamil Nadu District Municipalities Act, 1920 by considering the petitioner's representation, dated 16.04.2021.

For Petitioner : Mr.R.Paranjothi
for Mr.K.Baalasundharam

For RR 1 & 2 : Mr.R.Baskaran
Standing Counsel for Government

ORDER

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

We have heard Mr.R.Paranjothi for Mr.K.Baalasundharam, learned counsel appearing for the petitioner and Mr.R.Baskaran, learned



Standing Counsel for the Government, who accepts notice on behalf of the respondents 1 and 2.

2.In the light of the orders we propose to pass in this Writ Petition, notice to the respondents 3 and 4 is dispensed with.

WEB COPY

3.From the averments set out in the affidavit filed in support of the Writ Petition, we get an impression as if the present proceeding is a civil proceeding. In a Writ Petition, we cannot adjudicate the title to the property nor can be said anything about the right of the third and fourth respondents over the property in question. However, we can consider as to whether there is any unauthorised construction put up by the respondents 3 and 4 and if there is unauthorised construction ie., construction put up without obtaining building plan approval, it goes without saying that the second respondent should take action. Therefore, to that limited extent, we are inclined to entertain the Writ Petition and issue appropriate directions.

4.In the result, the Writ Petition is disposed of by directing the second respondent to conduct a surprise inspection of the property in question, ascertain whether there is any unauthorised or illegal construction and if there is any illegal or unauthorised construction going on, stop work notice should be given and thereafter, proceedings be initiated by following due process of law, after issuing notice to the respondents 3 and 4. The above direction be complied with within a period of six weeks from the date of receipt of a copy of this order.

5.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

<https://hcservices.ecourts.gov.in/hcservices/>



1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Executive Officer,
Illuppur Selection Grade Town Panchayat,
Illuppur, Pudukkottai District.

+1 CC to M/s.GP (SR-18647[F] dated 02/06/2021)

**ORDER MADE IN
W.P(MD)No.8955 of 2021
01.06.2021**

GS (11.06.2021) 3P 4C