



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)Nos.9580 and 11029 of 2021

and

W.M.P. (MD) No.8660 of 2021 in W.P. (MD) No.11029 of 2021

W.P. (MD)No.9580 of 2021:

R.Nagarajan

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Director,
Town and Country Planning,
Anna Salai,
Chennai.

3.The Assistant Director,
Town and Country Planning,
Collectorate,
Sivagangai.

4.The Commissioner,
Devakottai Municipality,
Devakottai.

5.Sivakumar

... Respondents

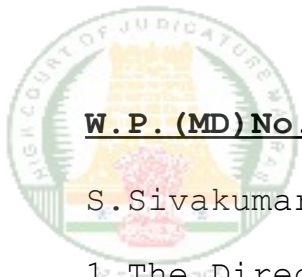
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents 1 to 4 to consider the representation of the petitioner dated 22.10.2020 and to demolish and remove the unauthorized construction in S.F.No.A/8/3/2A situated at Ramnagar, Devakottai put up by the 5th respondent.

For Petitioner : Mr.S.Madhavan

For Respondent Nos.1 to 3: Mr.A.K.Manickam
Standing Counsel for Government

For Respondent No.4 : Mr.Mohammed Imran

For Respondent No.5 : Mr.R.Balakrishnan



W.P. (MD)No.11029 of 2021:

S.Sivakumar

... Petitioner

Vs.

- 1.The Director,
Town and Country Planning,
Anna Salai,
Chennai - 600 002.
- 2.The Assistant Director,
Town and Country Planning,
Collectorate,
Sivagangai District.
- 3.The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in proceedings O.Mu.No.Ka.Ma.No.110/CP/20-21/0000354 dated 23.09.2020 issued by the 3rd respondent, quash the same as illegal and consequently direct the 3rd respondent to consider the petitioner's revised plan in revised application dated 10.09.2020 for the building in T.S.No.3/2, Block No.8, Town Survey Ward - A of Ram Nagar 4th Street, Devakottai Municipal Limit in accordance with law.

For Petitioner : Mr.B.Prasanna Vinoth

For Respondent Nos.1 & 2 : Mr.A.K.Manickam
Standing Counsel for Government

For Respondent No.3 : Mr.Mohammed Imran

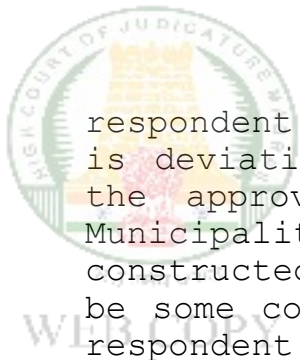
COMMON ORDER

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

Since the issues involved in these Writ Petitions are inter-connected, they are disposed of by this common order.

2.The petitioner in W.P.(MD) No.9580 of 2021 seeks for a direction upon respondent Nos.1 to 4 to demolish and remove the unauthorized construction in S.F.No.A/8/3/2A situated at Ramnagar, Devakottai put up by the 5th respondent alleging that he has effected un-authorized construction, virtually putting up construction on the petitioner's property.

3.The fourth respondent Municipality has given instruction to the learned Standing Counsel, which is to the effect that 5th
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respondent has obtained planning permission. But, admittedly there is deviation from the approved plan. When there is deviation from the approved plan, it is not known as to why the respondent Municipality has not taken any action against the person, who has constructed in deviation of the building plan. Probably there might be some collusion between the petitioner and officers of the fifth respondent. We do not wish to say anything on that.

4.The fifth respondent has filed an application for approval of the revised plan. It is not clear as to what is the nature of the deviation. If the deviation is with respect to set back area i.e., front set back area, rear set back area or side set back area, then that cannot be regularized. But, if there is elevation or projection, if the deviation of construction is removed, then the revised plan can be considered.

5.In any event, the issue with regard to the revised plan is pending in W.P.(MD)No.11029 of 2021, wherein the fifth respondent has sought to set aside the order of the Municipality in rejecting the application filed by the fifth respondent for approval of the revised plan.

6.The grievance of the fifth respondent is that the Municipality has not stated as to what is the nature of deviation. It is unfortunate that the fifth respondent has taken such a stand when he is fully aware of what is the deviation and the fifth respondent having obtained approved plan is bound to construct only in accordance with the approved plan.

7.Therefore, the fifth respondent is granted liberty to file revision before respondent Municipality seeking appropriate relief and it is open to the Municipality to take action in accordance with law. In the meantime, if the revised plan is not approved, then appropriate action be taken to remove the offending un-authorized construction put up by the fifth respondent.

8.These Writ Petitions stand disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions in W.P.(MD) No.11029 of 2021 is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic,
<https://hcservices.ecourts.gov.in/hcservices/>



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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- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Director,
Town and Country Planning,
Anna Salai,
Chennai.
- 3.The Assistant Director,
Town and Country Planning,
Collectorate,
Sivagangai.

+1 CC to M/s.SPL GP (SR-21732[F] dated 08/07/2021)

+1 CC to M/s.A.N.RAMANATHAN, Advocate (SR-21638[F] dated 08/07/2021)

+1 CC to M/s.H.MOHAMED IMRAN, Advocate (SR-21895[F] dated 09/07/2021)

W.P. (MD)Nos.9580 and 11029 of 2021

07.07.2021

RD(22.07.2021) 4P 7C