



WEB COPY

W.P.[MD]No.10065 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.10065 of 2021

S.Bala Vignesh : Petitioner

Vs.

1.The Director,
O/o. The Directorate of Town and Country Planning,
Koyambedu, Chennai - 600 107.

2.The Commissioner
Tirunelveli City Municipal Corporation
Tirunelveli, Tirunelveli District.

3.The Member Secretary
Local Planning Authority,
Xavier Colony,
South By-Pass Road,
Tirunelveli,
Tirunelveli District.

: Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents 1 to 3 to implement the resolution of the second respondent bearing No.227, dated 07.03.2019, classifying the areas in Palayamkottai as "Continuous Building Area" and "Economically Weaker Section Area" on the basis of the Petitioner's representation, dated 20.05.2021.

For Petitioner : Mr.I.Sam Jegan

For Respondents 1 & 3 : Mr.A.K.Manickam,
Standing Counsel for Government

For 2nd Respondent : Mr.Aayiram K.Selvakumar,
Standing Counsel

O R D E R

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

We have heard Mr.I.Sam Jegan, learned counsel appearing for the petitioner, Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the respondents 1 & 3. Mr.Aayiram

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



K.Selvakumar, learned Standing Counsel appearing for the second respondent.

2.This writ petition has been filed as a "Public Interest Litigation" to direct the respondents 1 to 3 to implement the resolution of the second respondent Municipal Corporation, dated 07.03.2019, in and by which, it appears that certain areas are sought to be reclassified in Palayamkottai, Tirunelveli District.

3.Earlier, we have come across very many cases of unauthorised constructions being done rampantly within the jurisdiction of Tirunelveli Municipal Corporation. Unfortunately, the Commissioner of the Corporation or the Officials have not taken any action. Very recently also, we have dealt with one such matter and the writ petition is still pending. It is not clear as to what was the basis on which, such resolution was passed. The petitioner, who is an individual seeks for a direction. The re-classification of an area by making it as a "Continuous Building Area" or a "Economically Weaker Section Area" are all policy decisions which have to be taken and there are several other factors which have to be taken note of before such decision is taken.

4.Furthermore, the provisions of the Tamil Nadu Town and Country Planning Act, also provides for a detailed procedure. Therefore, the prayer sought for by the writ petitioner is premature and based on his representation, we cannot compel the authorities to take action. Furthermore, the proper and necessary parties have not been impleaded in the writ petition. Unless the Government takes a decision, re-classification cannot be done. So far as the re-classification of an area as "Continuous Building Area" will enure to the advantage of certain residence, who genuinely want to put up construction within the permissible living area and equally it will pave the way for unscrupulous persons to further violate and make illegal constructions. In fact, there will be very many cases where re-classification is ordered. The application will be made for regularisation of the construction put up earlier on the ground that the area has been re-classified as "Continuous Building Area".

5.Therefore, in the *prima facie* view of this Court such re-classification may not augur well. However, if an area to be re-classified as "Economically Weaker Section Area", it is for the Government to take an action. Therefore, based upon the letter issued by the Commissioner, Municipal Corporation, we are not inclined to issue any Writ of Mandamus, because, we have seen as to how the Commissioner has dealt with the unauthorised constructions in the jurisdiction falling within the Tirunelveli Municipal Corporation.



6. For the above reasons, while declining to issue a Writ of Mandamus, we leave it open to the petitioner to pursue his representation, in the manner known to law.

7. Accordingly, this writ petition stands disposed of.
No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

RM

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 Director,
O/o. The Directorate of Town and Country Planning,
Koyambedu, Chennai - 600 107.
2. The Commissioner
Tirunelveli City Municipal Corporation
Tirunelveli, Tirunelveli District.
3. The Member Secretary
Local Planning Authority,
Xavier Colony, South By-Pass Road,
Tirunelveli, Tirunelveli District.

+1 CC to SPL GP (SR-19422[F] dated 16/06/2021)

ORDER MADE IN
W.P. [MD]No.10065 of 2021
14.06.2021