



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.15400 of 2021

and

W.M.P(MD)No.12310 of 2021

S.Nagarajan

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Madurai District, Madurai.
2. The Assistant Director of Town And Country Planning,
Office of The Assistant Director of Town And Country Planning,
Chinnachokkikulam, Madurai.
3. The Block Development Officer,
Vadipatti Block,
Union Office Building,
Meattu Neereathan Road,
Vadippatti, Madurai District.
4. The President of Mealakkal Panchayat,
Office of the President of Mealakkal Panchayat,
Mealakkal,
Vadippatti Taluk,
Madurai District.
5. G.Mariyammal
6. G.Ganesan
7. G.Gurusamy
8. G. Nambirajan
9. G.Nagarajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to take appropriate action to stop the unauthorized construction



made by the respondents 5 to 9 in S.No.544/2B of Melakkal Village, Vadippatti Taluk, Madurai District, without prior planning permission from the concerned authorities and demolish the unauthorized constructions.

For Petitioner : Mr.N.S. Karthikeyan

For Respondents : Mr.B. Saravanan
Government Advocate
for R1 and R2

: Mr.P. Thilak Kumar
Standing Counsel for the Government
for R3 and R4

ORDER

(Order of the Court was made by **M.DURAISWAMY, J.**)

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the respondents 1 to 4 to take appropriate action to stop the unauthorised construction made by the respondents 5 to 9, in Survey No.544/2B of Melakkal Village, Vadippatti Taluk, Madurai District without prior planning permission from the concerned authorities and demolish the unauthorized constructions put up by them.

2. The learned Counsel appearing for the petitioner submitted that the petitioner and others filed a civil suit in O.S.No.1328 of 2015, on the file of the Principal Subordinate Court, Madurai for declaration, partition and permanent injunction, in respect of the land in Survey Nos.544/2B and 539/A and the said suit is pending. The learned Counsel further submitted that during the pendency of the civil suit, the respondents 5 to 9 are constructing a building without obtaining planning permission from the official respondents.

3. On a perusal of the photographs annexed to the typed set of papers, it could be seen that some construction materials were stored and no construction has been put up in the land. The petitioner has not produced any photograph to establish that the respondents 5 to 9 have put up construction in the land in question. It is settled law that a construction should be put up only after obtaining planning permission from the concerned authority. If any party put up construction unauthorizedly, the authority shall take appropriate action for constructing unauthorized building without obtaining planning permission. Since the petitioner has not established that the respondents 5 to 9 have put up construction, we do not find any reason to entertain the Writ Petition. Accordingly



the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

SSL

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,
Office of the District Collector,
Madurai District, Madurai.
2. The Assistant Director of Town And Country Planning,
Office of The Assistant Director of Town And Country Planning,
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3. The Block Development Officer,
Vadipatti Block,
Union Office Building,
Meattu Neerathan Road,
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4. The President of Mealakkal Panchayat,
Office of the President of Mealakkal Panchayat,
Mealakkal,
Vadippatti Taluk,
Madurai District.

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-27549[F] dated 27/08/2021)

+1 CC to M/s.GP (SR-27633[F] dated 31/08/2021)

**W.P (MD)No.15400 of 2021
27.08.2021**

MGJ(07.09.2021) 3P 7C