



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.17853 of 2020

and

W.M.P.[MD]No.14891 of 2020

P.Palraj

... Petitioner

Vs.

1.The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai - 2.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The Member Secretary,
Local Planning Authority,
Xavier Colony, South Ring Road,
Tirunelveli, Tirunelveli District.

4.The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to remove the lock and seal for the 25 houses constructed by this petitioner in the town Survey No.505/1, 505/2, 505/3, 505/4, 505/5, 505/6 and 508/1, 508/2, 508/3, 508/4, 508/5, 508/6 in Palayamkottai Revenue Village, within this 4th respondent's jurisdiction, as per the contemplated provisions of the Town and Country Planning Act, within a time frame.

For Petitioner	: Mr.F.X.Eugene
For Respondents 1&2	: Mr.K.P.Krishnadass, Special Government Pleader
For Respondents 3&4	: Mr.Aayiram K.Selvakumar Standing Counsel

O R D E R

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

With the consent on either side, this Writ Petition itself is taken up for final disposal.



2. Heard Mr.F.X.Eugene, learned Counsel appearing for the petitioner, Mr.K.P.Krishnadass, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.Aayiram K.Selvakumar, Standing Counsel appearing for the respondents 3 and 4.

3. The petitioner seeks for issuance of a Writ of Mandamus, to direct the respondents to remove the lock and seal of the 25 houses constructed by the petitioner in the town Survey Nos.505/1, 505/2, 505/3, 505/4, 505/5, 505/6 and 508/1, 508/2, 508/3, 508/4, 508/5, 508/6 in Palayamkottai Revenue Village.

4. We need not labour much to consider as to what relief the petitioner will be entitled to in this writ petition. The locking and sealing of the houses is consequent to the directions issued in Public Interest Litigations where unauthorised constructions on the banks of river Thamirabarani was subject matter. Consequent upon the various directions issued in Public Interest Litigations and the Contempt Petitions filed therein, the 25 houses owned by the petitioner have been locked and sealed. The petitioner now wants to unlock and unseal the premises. This cannot happen unless and until the deviation is regularised by the petitioner. There are two aspects to it. If the construction has been put up on a river poramboke or on a Government property, then the petitioner cannot claim such a relief.

5. Mr.F.X.Eugene, learned Counsel appearing for the petitioner emphatically submits that the land belongs to the petitioner and patta has been issued. This appears to have been verified by the respondents and in this regard, learned Counsel for the petitioner has drawn our attention to the report of the Tahsildar dated 03.12.2018, submitted to the District Collector, Tirunelveli.

6. With regard to the construction put up by the petitioner, once again there will be more than one category of cases. The first set of case would be whether there is no planning permission obtained. If that is so, the entire construction is unauthorised and has to be definitely demolished. The second category is having obtained planning permission for a meagre extent additional extent would have been constructed. This also would call for demolition of the additional extent which is beyond the planning permission. The third category of cases would be whether there is deviation from the approved plan. Certain deviations are rectifiable and others are not rectifiable and would require extensive demolition to bring the structure in accordance with the approved plan. We are not clear as to in which category the petitioner's building would fall. Therefore, we issue the following direction:

"the petitioner is directed to prepare a proper plan with a view to safeguard his superstructure and how he proposes to do so. And such plan be submitted to the third and fourth respondents and if the plan is



approved by the appropriate authority, then the authority shall unlock and unseal the premises and also fix a time limit, within which the petitioner should construct and bring the building in accordance with the plan, so approved. If the petitioner submits the demolition plan, within a period of three [3] weeks from the date of receipt of a copy of this order, the respondents 3 and 4 shall consider the same and pass appropriate orders within a period of eight [8] weeks thereafter."

7. With the above direction, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// 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.

To

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Chennai - 2.
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+1 CC to M/s.F.X.EUGENE, Advocate (SR-16659[F] dated 20/04/2021)

+1 CC to M/s.SPL GP (SR-16713[F] dated 20/04/2021)

W.P.[MD]No.17853 of 2020
19.04.2021

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