



W.P.(MD).Nos.12262 and 12538 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).Nos.12262 and 12538 of 2012

and

M.P(MD)Nos.1,1 and 2 of 2012

V.Vijayaraj

... Petitioner
(In both cases)

Vs.

1.The Director,
Town and Country Planning Authority,
807, Anna Salai,
Chennai-600 002.

2.The Chairman (District Collector),
Local Planning Authority,
Madurai.

3.The Commissioner,
Madurai Corporation,
Madurai.

4.The Member Secretary,
Local Planning,
Madurai.

... Respondents
(In both cases)

PRAYER IN W.P(MD)No.12262 of 2012 : Writ Petition filed under
Article 226 of the Constitution of India, praying this Court to issue a



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Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent vide Po.5/10826/12, dated 21-08-2012 and quash the same and consequently direct the first and second respondents to grant plan approval in pursuance of the application submitted by the Petitioner under section 49 of the Tamil Nadu Town and Country Planning Act, 1971 in accordance with law and permit the Petitioner to continue the construction in Door No.1 & 1-A, P.P. Chavadi, Theni Main Road, Madurai.

PRAYER IN W.P(MD)No.12538 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent vide Na.Ka.No. 910/12/mathi 3 dated 08.08.2012 and quash the same and consequently direct the first and second respondent to grant plan approval in pursuance of the application submitted by the petitioner under Section 49 of the Tamil Nadu Town and Country Planning Act 1971 in accordance with law and permit the petitioner to continue the construction in Door No. 1 & 1 - A, P.P. Chavadi , Theni Main road, Madurai.

For Petitioner : Mr.D.Shanmuga Rajasethupathi
(In both cases)

For R1,R2 & R4 : Mr.S.Shanmugavel
Additional Government Pleader
(In both cases)



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For R3

: Mr.R.Murali
(In both cases)

ORDER

W.P(MD)No.12262 of 2012 has been filed challenging an order passed by the third respondent herein, under which the Madurai Corporation has issued a stop construction notice on the ground that no prior building plan approval has been obtained by the writ petitioner before starting the construction.

2. According to the learned counsel for the petitioner, after obtaining building plan approval, dated 21.06.1986, they have jointly constructed a Community Hall consisting basement, ground floor and first floor. Since they wanted to remodel the building, they have approached the planning experts. They had proposed to put up a huge building and they wanted to construct the second, third and fourth floors and started the constructions after completing all the statutory formalities. While the construction was going on, the fourth respondent has issued a notice on 04.07.2012 under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act,1971. Thereafter, pursuant to the



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said notice, the petitioner had stopped the construction work on 09.07.2012.

3. The petitioner has further contended that on 13.07.2012, they have submitted an application under Section 49 of Tamil Nadu Town and Country Planning Act, 1971 for obtaining permission for development of the said building. The petitioner has also remitted charges for a sum of Rs.95,340/- (Rupees Ninety Five Thousand Three Hundred and Forty only) towards licence fees and another sum of Rs.90,000/- (Rupees Ninety Thousand only) towards underground drainage deposit. Thereafter, the petitioner has received another notice on 08.08.2012, for which he has sent a representation on 11.08.2012. In the meantime, the impugned order, dated 21.08.2012 has been passed by the Commissioner, Madurai Corporation. The said order is under challenge in the writ petition.

4. According to the learned counsel for the petitioner, they have already filed an application before the first respondent herein and the same is pending. Though various documents were called for from the



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first respondent herein, they have been regularly submitting the said document. However, there is some delay on the part of the first respondent. Hence, the planning approval is still awaited.

5. The learned Additional Government Pleader for the first respondent has produced certain documents to the effect that in the year 2017, a letter was addressed to the writ petitioner calling for six documents from the writ petitioner. According to the learned counsel for the petitioner, he has not received the said letter, dated 06.01.2017.

6. In view of the above said facts, this Court is inclined to pass the following orders:

(i) The writ petitioner is directed to produce all the documents as called for by the fourth respondent in their notice, dated 04.12.2014 to the fourth respondent herein within a period of four weeks from the date of receipt of a copy of this order.



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(ii) On receipt of the said document, the fourth respondent is directed to forward the same to the first respondent. On receipt of the said document, the first respondent is directed to dispose of the same in the light of the Building Regularisation Scheme, 2017 and Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. The said exercise shall be completed by the first respondent within a period of 6 weeks from the date of receipt of the papers from the fourth respondent.

(iii) The parties are directed to maintain status quo till 12.10.2022 in W.P(MD)No.12538 of 2012. In case, if there is any delay on the part of the authorities in considering the request of the petitioner, the petitioner is at liberty to approach this Court for extension of the order of Status Quo.



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7. With the above said observations, this Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.07.2022

Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR ,J.

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Order made in
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