



W.P.(MD).No.13954 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.13954 of 2012

and

M.P(MD)No.2 of 2012

G.Sathiskumar

... Petitioner

Vs.

1.The Commissioner,
Corporation of Madurai,
Madurai.

2.The Member Secretary,
Madurai Local Planning Authority,
3rd Floor, Madurai Corporation Building,
Aringar Anna Maligai,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order bearing Na.Ka.No. 924/2012/mathi 2 dated 17.10.2012 passed by the second respondent and quash the same.



W.P.(MD).No.13954 of 2012

For Petitioner : Mr.M.Gnanagurunathan
for Mr.K.Samidurai
For Respondents : Mr.R.Murali

ORDER

The present writ petition has been filed challenging an order passed by the second respondent herein, under which the petitioner was directed to apply for building plan approval before the second respondent.

2. The learned counsel for the petitioner had submitted that the petitioner has applied for building plan approval on 13.07.2010 before the first respondent and the first respondent has also granted a building plan approval on 16.07.2010. According to the learned counsel for the petitioner, the building has been completed, when the impugned notice was issued by the second respondent herein up to the level of sixth floor excluding the ground floor.

3. The learned counsel for the petitioner had further contended that up to 14.06.2010, the power of the second respondent was delegated to



W.P.(MD).No.13954 of 2012

the first respondent herein. However, when the petitioner made an application on 13.07.2010, he was not aware of the fact that the delegation was withdrawn by the second respondent herein. The first respondent authorities were also not aware of the fact that their delegated power was withdrawn on 14.06.2010. Hence, the petitioner cannot be blamed for approaching the first respondent authorities for obtaining a building plan approval. The first respondent themselves were not aware of the withdrawal of the delegated power and they have proceeded to grant building plan approval on 16.07.2010 after remittance of the necessary charges.

4. Relying upon the said approval granted by the first respondent herein, the petitioner has completed the constructions, when the impugned order came to be passed by the second respondent. From the above said facts and sequence of dates, it is clear that the petitioner cannot be faulted with for proceeding with the construction and completing the construction. The petitioner was under the bonafide impression that the first respondent is the competent authority for



W.P.(MD).No.13954 of 2012

granting building plan approval. However, after 14.06.2010, the power delegated by the second respondent in favour of the first respondent has been withdrawn. Hence, the building plan approval granted in favour of the petitioner on 16.07.2010 cannot stand in the scrutiny of law. The petitioner has to apply afresh to the second respondent herein and get a new building plan approval. Hence, the petitioner can very well approach the second respondent herein for regularization of the already constructed building pursuant to the building plan approval granted by the first respondent herein.

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

(i) The petitioner shall approach the second respondent herein for regularization of the already constructed building pursuant to the building plan approval granted by the first respondent herein on 16.07.2010.

(ii) The petitioner is directed to approach the second respondent within a period of four weeks.



W.P.(MD).No.13954 of 2012

(iii) Till a decision regarding regularization is taken

WEB COPY

by the second respondent, the impugned order shall be kept in abeyance.

6. With the above said observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed

29.06.2022

gbg

Index : Yes / No
Internet : Yes / No

To

1.The Commissioner,
Corporation of Madurai,
Madurai.

2.The Member Secretary,
Madurai Local Planning Authority,
3rd Floor, Madurai Corporation Building,
Aringar Anna Maligai,
Madurai.

5/6



WEB COPY



W.P.(MD).No.13954 of 2012

R.VIJAYAKUMAR ,J.

gbg

Order made in
W.P.(MD).No.13954 of 2012

29.06.2022