



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2022

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.10844 of 2022
and
W.M.P(MD)No.7804 of 2022**

Bakkiya Lakshmi ...Petitioner

Vs.

1.The District Collector,
Thanjavur District
@ Thanajvur.

2.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

3.Gnanajothi ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 and 2 to take necessary action against the third respondent for the illegal construction in Town Resurvey No.3615/6, (Old Town Survey No.3389) Ward No.6, Fathima Nagar, Puthupattinam Village, Thanjavur Taluk and Town by considering the representation of the petitioner dated 24.03.2022.

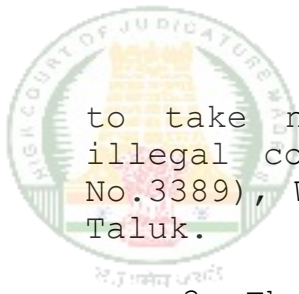
For Petitioners	: Mr.K.Vamanan
For R-1	: Mr.S.P.Maharajan, Special Government Pleader
For R-2	: Mr.N.Dilip Kumar

O R D E R

(Order of the Court was made by S.S.SUNDAR, J.)

Heard Mr.K.Vamanan, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader for the first respondent and Mr.N.Dilip Kumar, learned standing counsel for the second respondent.

2. The petitioner has filed the above writ petition for issuance of a Writ of Mandamus, directing the respondents 1 and 2,



to take necessary action against the third respondent for the illegal construction in Town Resurvey No.3615/6 (Old Town Survey No.3389), Ward No.6, Fathima Nagar, Puthupattinam Village, Thanjavur Taluk.

3. The grievance of the petitioner is that the third respondent who is the neighbour of the petitioner has started construction of a house without obtaining planning permission or building plan approval from the second respondent. Stating that the third respondent has put up construction without following the Building Rules, the petitioner also pointed out that if the construction of a house as proposed by the third respondent is allowed, it will cause obstruction of air and light to the petitioner, who is residing in a building adjoining the boundary of the third respondent's house. The petitioner has given a representation to the second respondent in person and also a police complaint.

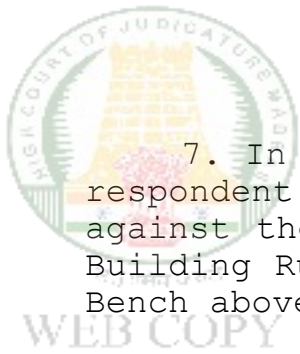
4. The learned standing counsel for the second respondent on instructions submitted that the second respondent has already issued a notice directing the third respondent to stop construction activity by resorting to Section 274(1), 284 and 447 of Coimbatore City Municipal Corporation Act as applicable to the second respondent Corporation.

5. The learned standing counsel appearing for the second respondent also relied upon the judgment of a Division Bench of this Court in the case of ***Elizebeth Ebenezer vs. The Junior Engineer, Corporation of Chennai and five others*** reported in **2012(1) CWC 337**, wherein it has been observed as follows:

"4.A person, who is constructing his building or house, illegally or without approved plan, has no legal right to move this Court and seek a direction for taking action against the adjacent owner allegedly making construction unauthorisedly or in violation of the approved plan. In such cases, the Corporation and the C.M.D.A shall not only take action against the person, who is constructing the building, but also against the person, who has lodged a complaint, if it is found that he has also made illegal construction.

5.We also state that the person, who is filing the writ petition, must file an Affidavit stating that he has constructed his house, where he is residing, in accordance with the plan duly approved by the CMDA and the Corporation, and there has never been any violation."

6. The learned standing counsel appearing for the second respondent also stated that a notice has been issued to the petitioner as well as the third respondent regarding violation of the Building Rules.



7. In this context, the learned standing counsel for the second respondent also sought for permission to take appropriate action against the petitioner also who is also found to have violated the Building Rules or Regulations in terms of the order of the Division Bench above referred to.

8. Considering the grievances expressed by the petitioner in the writ petition and the statement of the learned standing counsel appearing for the second respondent, this Court is inclined to pass the following order:

"(i) The second respondent is directed to consider the representation of the petitioner, dated 24.03.2022 and pass appropriate orders after holding an enquiry. Before taking any coercive action against the third respondent, the third respondent shall be put on notice and be given a fair opportunity.

(ii) It is open to the second respondent to take appropriate action against the petitioner also, in case, the petitioner is also found to have violated any Building Rules or Regulations.

(iii) In case, the petitioner has personal grievance, it is open to her to approach the civil Court for appropriate relief as against the third respondent if the offending construction causes any nuisance or obstruct his right to air and light which he is entitled to under Common Law. The second respondent may pass appropriate orders or take appropriate action if necessary pursuant to the enquiry, within a period of twelve weeks from the date of receipt of a copy of this order."

With the above direction, this writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

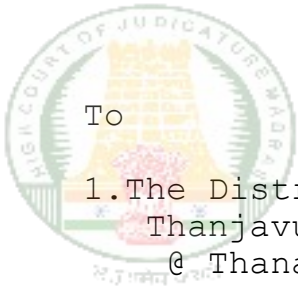
Assistant Registrar(CS-III)

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/ /2022

Sub Assistant Registrar(CS)

PM



To

1.The District Collector,
Thanjavur District
@ Thanajvur.

2.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

+1 CC to M/s.SPL.GP (SR-24405[F] dated 07/06/2022)

W.P (MD) No.10844 of 2022
06.06.2022

NSN (CO)
KB (14.06.2022) 4P 4C