



WEB COPY



WP No. 23245 of 2016

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 20.02.2023

CORAM

**THE HONOURABLE MR. JUSTICE R. MAHADEVAN**  
and  
**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Petition No. 23245 of 2016

Thiagarajan

.. Petitioner

Versus

1. The Member Secretary  
Pondicherry Town & Country Planning Authority  
Jawahar Nagar, Puducherry – 605 005

2. The Member Secretary  
Puducherry Planning Authority  
Jawahar Nagar Main Road  
Jawahar Nagar, Boomianpet  
Puducherry – 605005.

3. P. Arikrishnan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to implement the order no.13/PPA/Z(BCP)/2015/250, dated 14.01.2016.

For Petitioner : Mr. V. Lakshmi Narayanan  
for Ms. V. Srimathi

For Respondents : Mr. B. Ramasamy,  
Additional Government Pleader for R1 & R2  
Mr. K. Chandrasekaran for R3



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**ORDER**

[Order of the Court was made by R. MAHADEVAN, J]

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The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to implement the order No. 13/PPA/Z(BCP)/2015/250, dated 14.01.2016 passed by the first respondent.

2. In the affidavit filed in support of the writ petition, the petitioner has stated that he is the owner of the land together with a building comprised in R.S. No.56/34, Bahour Revenue Village. According to him, even at the time of putting up construction, he had left 7 feet breadth in the front side of his land to facilitate access to Agraharam Street. It is further stated by the petitioner that the third respondent had started putting up a Kalyana Mandapam, Commercial complex as well as a flour mill in the land comprised in R.S. No. 56/35, adjacent to his land, without obtaining any permission or approval from the planning authority, besides he had attempted to encroach his land. The petitioner therefore filed a suit in O.S. No. 566 of 2014 for bare injunction. In the civil suit, an interim injunction was granted on 11.03.2014 restraining the third respondent from putting up any further construction. Notwithstanding such an order, the third respondent proceeded with the



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construction and therefore, the petitioner gave a complaint to the Station House Officer, Bahour Police Station. On the basis of such a complaint, an enquiry was conducted and as per the instructions of the police officials, the third respondent stopped further construction for some time. Later, the third respondent once again proceeded with the construction and therefore, the petitioner filed WP No. 13208 of 2014 before this Court in which an order dated 14.05.2014 was passed directing the petitioner to approach the respondents 1 and 2 herein. Accordingly, the petitioner submitted a representation to the respondents 1 and 2 based on which a notice for demolition was issued by the first respondent on 14.01.2016. However, till date, the respondents 1 and 2 did not take any steps pursuant to the notice dated 14.01.2016 issued to the third respondent. Therefore, the petitioner has come up with this writ petition.

3. The learned counsel appearing for the petitioner submitted that inspite of the notice dated 14.01.2016 passed by the first respondent, for demolishing the offending superstructure put up by the third respondent, till date, no further action has been taken and it warrants issuance of a Mandamus by this Court.



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4. The learned counsel appearing for the contesting third respondent submitted that the petitioner was the owner of the land comprised in Survey No.56/34 measuring 0.70.30 hectares viz., 7841 square feet. The third respondent purchased a portion of the land measuring 1728 square feet out of 7841 square feet from the petitioner through a registered sale deed dated 15.04.1999. Subsequently, the third respondent purchased another piece of land measuring 2808 square feet in the same Survey No. 56/34 from the petitioner by means of a registered sale deed dated 30.12.2002. Out of the balance 3305 square feet, the petitioner, after selling a major portion of the land to the third respondent, retained 1758 square feet of land with him in which he had put up a residential house without obtaining any approval from the Pondicherry Planning Authority. Even though the petitioner promised to get planning permission for the plots sold to the third respondent, he failed to do so and when it was questioned, he has filed the suit in O.S. No. 566 of 2014. The third respondent further submitted that apart from the lands purchased from the petitioner, he also purchased land measuring 3690 square feet in Survey No.56/35 by means of a registered sale deed and settled it in favour of his wife by a settlement deed on 16.11.1990. As far as the construction is concerned, the third respondent obtained sanctioned plan and constructed the marriage hall, flour mill and residential houses. When the



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third respondent has proceeded with further construction of second floor, dispute arose and based on the complaint of the petitioner, demolition notice was issued to erase the construction in the land in Survey No.56/35, which belongs to his wife. Thus, at the instance of the petitioner, the notices dated 14.01.2016 and 28.01.2019 were issued for demolishing the portion of the building constructed by the third respondent. Aggrieved by the same, an appeal has been filed before the Chairman, Puducherry Town and Country Planning Board on 11.02.2019 and the appeal is pending. When the statutory appeal is pending before the competent authority, the prayer sought for in this writ petition to give effect to the notice of demolition dated 14.01.2016 need not be granted and therefore the third respondent prayed for dismissal of the writ petition as devoid of merits.

5. We have heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 and 2, the learned counsel for the contesting third respondent and perused the materials placed on record.

6. Admittedly, at the instance of the petitioner, the notice dated 14.01.2016 was issued by the first respondent calling upon the third



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respondent to demolish the construction put up by him, in violation of building norms. It is also an admitted fact that as against the notice dated 14.01.2016, the third respondent has filed a statutory appeal before the Chairman, Puducherry Town and Country Planning Board on 11.02.2019 and the appeal is pending. While so, the relief sought for in this writ petition to direct the respondents 1 and 2 to give effect to the notice for demolition dated 14.01.2016 cannot be granted. At the same time, we direct the Chairman, Puducherry Town and Country Planning Board to dispose of the statutory appeal said to have been filed by the third respondent on 11.02.2019, on its own merits and in accordance with law, expeditiously. It is needless to mention that depending upon the order to be passed in the statutory appeal preferred by the third respondent, the respondents 1 and 2 shall take further action pursuant to the notice dated 14.01.2016 issued to the third respondent.

With the above directions, this Writ Petition is disposed of. No costs.

**(R.M.D., J) (M.S.Q., J)**  
20.02.2023

*ay/rsh*

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

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To

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Pondicherry Town & Country Planning Authority  
Jawahar Nagar, Puducherry – 605 005

2. The Member Secretary,  
Puducherry Planning Authority,  
Jawahar Nagar Main Road,  
Jawahar Nagar, Boomianpet,  
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Copy to

The Chairman  
Puducherry Town and Country Planning Board  
Puducherry



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**R. MAHADEVAN, J**  
and  
**MOHAMMED SHAFFIQ, J**

*ay/rsh*

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