



W.P.No.10066 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

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K.Rajamanickam

... Petitioner

Vs.

1. The District Collector,
Office of the District Collectorate,
Namakkal District 637 003.
2. The Assistant Director,
Town and Country Planning (DTCP),
Namakkal, Namakkal District 637 001.
3. The Block Development Officer,
O/o the Block Development Office,
Alemedu, Palipalayam Post,
Kumarapalayam Taluk,
Namakkal District 638 006.
4. The Revenue Tahsildar,
O/o the Revenue Tahsildar Office,
Kumarapalayam Taluk,
Namkkal District 638 183.



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5. The Executive Engineer (O & M),
TANGEDCO, Pallipalayam & (Post),
Kumarapalayam Taluk,
Namakkal District 638 006.

6. The Panchayat President,
Kadachanallur Panchayat,
Kumarapalayam Taluk,
Namakkal District 638 006.

7. M/s KSJ Spins & Weavers Pvt. Ltd.,
Proprietor by Krishnamoorthy,
S.F.No.6/1D, Kadachanallur Village,
Kumarapalayam Taluk,
Namakkal District 638 008

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent to demolish the construction in lands in S.F.Nos.6/1D, 6/1E and 6/2 of Kadachanallur Village, Kumarapalayam Taluk, Pallipalayam Sub Registry, Namakkal District as per sections in 56 (2-A) and 57 of the Tamilnadu Town Plannin Act, 1971, in accordance with law and consequently direct the third respondent to consider the petitioner's representation on 16.03.2023 by fixing stipulated time.

For Petitioner : Mr.G.Munuraj

For Respondents : Mr.A.Selvendran, Spl.Govt.Pleader
for R1, R2 and R4
Mrs.Akila Rajendran, Govt. Advocate
for R3 and R6
Mr.V.Kadhirvelu for R7



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ORDER

WEB COPY (Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ Petition has been filed to direct the third respondent to demolish the construction in lands in S.F.Nos.6/1D, 6/1E and 6/2 of Kadachanallur Village, Kumarapalayam Taluk, Pallipalayam Sub Registry, Namakkal District as per sections in 56 (2-A) and 57 of the Tamilnadu Town Planning Act, 1971, accordance with law and consequently direct the third respondent to consider the petitioner's representation on 16.03.2023, within a time frame as fixed by this Court.

2. The petitioner is residing in East Thottipalayam, Kadachanallur Village, Kumarapalayam Taluk, Namakkal District. The 7th respondent, who is his neighbour, is running a power loom industry in the name of M/s K.S.J.Spins and Weavers Private Limited in the adjacent land of the petitioner's property. Further, he has constructed godown sites, without getting any permission from the authorities concerned. According to the petitioner, the land, in which the 7th respondent is running the power loom is an agricultural land and it never classified as non-agricultural land, for



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business purpose. The power loom causing air and noise pollution to him and his neighbours. Therefore, he made a complaint before the respondents 1 to 5 and asked information under RTI Act, with regard to the permission granted for construction of the building and also electricity connection given for running the power loom. The petitioner got information that the 5th respondent has given electricity connection of High Tension line and without getting no objection from one Vijayasundari, the 7th respondent has got electricity connection laying wires over and above her land. The petitioner has made several representation, however, the authorities concerned have not taken any action. The last such representation was made to the third respondent on 16.03.2023 under Section 56 (2A) and 57 of the Tamil Nadu Town and Country Planning Act. Since there is no response, this writ petition has been filed.

3. This Court, vide order dated 06.04.2023, in the presence of the counsel appearing for petitioner as well as respondents 1, 2, 3, 4 and 6, has appointed a counsel, namely, Mr.K.V.Muthu Visakan as Advocate Commissioner to inspect the property and to ascertain whether the property



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in question in S.F.Nos.6/1D, 6/1E and 6/2 of Kadachanallur Village is a vacant land, as per Section 56(2-A) and 57 of the Act or the building has been constructed contrary to the building rules, as alleged by the petitioner and directed the Advocate Commissioner to file a report.

4. The Advocate Commissioner has filed a report before this Court stating that the property was inspected in the presence of both the parties and with the assistance of Taluk Deputy surveyor, Revenue Inspector and Village Administrative Officer and submitted the report, which contains the following particulars.

“ The S.F.No.6/2 was sub-divided into S.F.No.6/2A and 6/2B, vide proceedings in Tk.8A/247/1430. As per the records, S.F.No.6/2A belongs to 7th respondent and 2 others vide patta No.393; and S.F.No.6/2B belongs to Mrs.Sreeselvi, w/o Krishnamoorthy, vide patta No.3235.

After verifying the records, the 2nd respondent informed that the planning permission and approval of building plan had been issued for construction of power loom and hand loom industry building at S.F.No.s6/1D, 6/1E and 6/2B of Kadachanallur Village in favour of Mrs.Sreeselvi.



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At the time of inspection, it was noticed that one industrial building annexed with tin sheet roofing shed is there in the eastern side and further two building consisting of toilets and wash rooms (totally 3) are in S.F.No.6/1D. In S.F.No.6/1E, no building is available and in S.F.No.6/2B, one electrical room building is available.

The industrial unit situated at S.F.No.6/1D is running and surrounded by compound wall and no Tar road is available to connect or end with the above survey numbers.

Through the report of official respondent No.4, it was noticed that the building was constructed in deviation to the approved plan in S.F.No.6/1D as follows;

<i>Direction</i>	<i>As per Plan (Meters)</i>	<i>In the field (Meters)</i>
East	37.49	38.6
West	37.49	38.6
South	21.95	22.6
North	21.95	22.6

5. From the available records, it is seen that the revised estimate for extension of electricity supply to M/s KSJ Spins and Weavers (P) Ltd run



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by the proprietor of Mr.Krishnamoorthy (7th respondent) at SF.No.6/1D, Ayakkadu, Kadachanallur Village was sanctioned, vide order dated 06.10.2022 by the Electricity Board. However, from the report of Advocate Commissioner, it is clear that the 7th respondent had constructed the building in deviation to the approved plan. Therefore, the third respondent is directed to consider the representation of the petitioner dated 16.03.2023 in the light of the Advocate Commissioner's Report and to take necessary action with regard to the above deviation/ unauthorized construction, after affording opportunity to the parties concerned, as per the Rules and decide the issue on its own merits and in accordance with law, within a period of twelve weeks from the date of receipt of the copy of the order.

6. Further, the Advocate Commissioner has filed a memo seeking additional remuneration for the work done by him. Therefore, the 7th respondent is directed to pay a sum of Rs.20,000/- (Twenty thousand) as Additional Remuneration to the Advocate Commissioner forth with.

7. With the above directions, this writ petition is disposed of. No



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(D.K.K.J.)

(P.D.B.J.)

07.06.2023

mst

To

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Namakkal District 637 003.
2. The Assistant Director,
Town and Country Planning (DTCP),
Namakkal, Namakkal District 637 001.
3. The Block Development Officer,
O/o the Block Development Office,
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Kumarapalayam Taluk,
Namakkal District 638 006.



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6. The Panchayat President,
Kadachanallur Panchayat,
Kumarapalayam Taluk,
Namakkal District 638 006.

7. M/s KSJ Spins & Weavers Pft. Ltd.,
Proprietor by Krishnamoorthy,
S.F.No.6/1D, Kadachanallur Village,
Kumarapalayam Taluk,
Namakkal District 638 008.



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