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W.P.No.12219 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

**W.P.No.12219 of 2023
and
WMP.No.12066 of 2023**

C.Suryamoorthy

..Petitioner

Vs

1 The Secretary to Government
Housing and urban Development Department,
Government of Tamil Nadu,
Fort St George, Chennai 600 009

2 The Commissioner
Palladam Municipality,
Trichy Road,
Palladam, Tiruppur District

..Respondents

Prayer: Writ Petitions are filed under Article 226 of Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records of impugned notice No.Na. Ka. No 1185 / 202 / F1 dated 31.03.2023 issued by the 2nd respondent under section sections 216, 340, 344 of the Tamil Nadu District Municipalities Act 1920 and under sections 56 and 57 of the Tamil Nadu town and country Planning Act 1971 and to quash the same and consequently forbear the respondents from proceeding in any manner further based on the alleged sealing proceeding.



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For Petitioner : Mr. J. Nithyanandan

For Respondents : Mrs. R.L. Karthika, GA – R1
Mr. B.Anand, Standing Counsel - R2

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the notice issued by the 2nd respondent in Na.Ka.No 1185 / 202 / F1 dated 31.03.2023 under Sections 216, 340, 344 of the Tamil Nadu District Municipalities Act 1920 and under Sections 56 and 57 of the Tamil Nadu Town and country Planning Act 1971, the present writ petition is filed by the writ petitioner.

2. The learned counsel for the petitioner has submitted that the writ petitioner is the owner of the property situate at Door No. 124 A, Trichy Road, Palladam, Tiruppur District. The petitioner constructed a building at the rear side of the said property in the year 2012. Necessary planning approval has been granted by the Palladam Municipality vide approval no. 32/2012-23, dated 25.07.2012. The building consist of Ground + 2 floors. The petitioner has constructed a shop and temporary shed on the terrace of



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the shop nearly 32 years ago. The respondents have now initiated action against the petitioner for violation of approved building plan .

3. The learned counsel for the petitioner has further submitted that the petitioner's adjacent land owner namely K.Srinivasan who owns a commercial building has filed two writ petitions before this Court in W.P.No.s 4402 of 2020 and 4809 of 2020 against Karthikeyan, Arunraj and Suryamoorthy/petitioner herein seeking directions to demolish the buildings owned by the said persons. This Court by order dated 21.06.2022 had disposed of the said writ petitions and directed the Commissioner of Palladam Municipality to take action against the petitioner herein and two others after giving proper notice. Pursuant to the said order of this Court, the Commissioner of Palladam Municipality/2nd respondent herein has issued a stop notice dated 08.08.2022 to the petitioner herein under the provisions of Sections 216, 340 and 344 of the Tamil Nadu District Municipalities Act, 1920 and under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act 1971 to provide the approved plan. The petitioner has given reply dated 06.09.2022 to the above notice, enclosing the approved place



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along with details.

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4. The learned standing counsel for the 2nd respondent-Municipality has filed counter affidavit and submitted that pursuant to the directions of this Court in W.P.Nos. 4402 & 4809 of 2020, dated 21.06.2022, the 2nd respondent Municipality has initiated necessary enforcement action against the petitioner as well as respondents in the above said writ petitions. It is also stated in the counter that the petitioner's land in survey no. 263/1A2 is 647.97 Sq.m, but the petitioner has constructed three individual buildings and filed Annexure regarding the action taken by the respondent-Municipality against the unauthorised constructions and deviation so far identified. The construction put up by the petitioner in his three buildings is tabulated below;

S.no	Floor details	Extent of the building	Usage	Remarks
1	Ground Floor - RCC	124.45 sq.m	Commercial	Plan Approval No. 50/89-90, Dt. 28.12.1989. Approved area - 102.03 sq.m. Additional built up area - 23.64 sq.m



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S.no	Floor details	Extent of the building	Usage	Remarks
	Stair case and pathway	39.90 sq.m (Steel structure)		Approved area - 16.26 sq.m Additional built up area 23.64 sq.m
	First Floor -ACC Sheet	124.45 sq.m	Commercial	Constructed without obtaining plan approval
2	Ground Floor - RCC	129.36 sq.m	Residential	Constructed without obtaining plan approval
	First Floor - ACC Sheet	129.36 sq.m	Residential	Constructed without obtaining plan approval
3	Ground Floor + 2 Floors	Each Floor having 42.23 sq.m	Residential	Plan approval No. 32/2012-13, Dt. 25.07.2012. Approved area - 52.60 sq.m for each floors

5. According to the learned standing counsel for the respondent-municipality, the petitioner has violated the approved building plan and without obtaining approval from the respondent, he had constructed commercial building in the first floor. The learned standing counsel has further submitted that the respondent-Municipality is taking action against the unauthorised constructions and deviations against the approved plan and taking steps to complete the task in a time frame. The learned standing



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counsel for the 2nd respondent has further submitted that despite the post of Town Planning Inspector is vacant is for more than 10 months, the routine work is being looked after by incharge arrangements and action is being taken against the violators.

6. The learned counsel for the petitioner has agreed that there is deviation in the petitioner's buildings and assured that the petitioner will approach the authorities concerned and rectify the deviations within a time frame as fixed by this Court.

7. The learned standing counsel for the respondent-municipality, though not contravene the said submissions made by the learned counsel for the petitioner, seeks liberty before this Court to take necessary action to remove any illegal and unauthorised constructions found in the petitioner's building after the rectification process has been completed.

8. Considering the facts and circumstances of the case and accepting the aforesaid submissions made by both the learned counsels, We are inclined to pass the following order;

- i. The petitioner is directed to approach the respondent-Municipality with proper application and rectify the deviations highlighted by the



respondent-Municipality in their counter affidavit. The said process shall be completed within a period of six weeks from the date of receipt of a copy of this order.

- ii. It is made clear that in the event, the petitioner fails to rectify the aforementioned deviations, the 2nd respondent-Municipality shall initiate appropriate legal action for the removal of unauthorised constructions in the petitioner's buildings, in accordance with the provisions of the applicable laws.

9. With regard to the statement made in the counter affidavit filed by the 2nd respondent-Municipality that due to dearth of officials having technical knowledge over the planning, the respondent-Municipality is struggling to remove the unauthorised constructions. We find it unacceptable to consider this reason, as it would essentially allow the violators to continue their illegal and unauthorised constructions.

10. In light of the seriousness of this matter, We hereby direct the District Collector, Tiruppur to oversee the actions taken by the Municipal authorities, specifically the Commissioner of Palladam Municipality/2nd respondent herein. The District Collector shall obtain periodical reports on the actions taken from the Commissioner, Palladam Municipality and submit



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them to the 1st respondent/Government every three months for review. This monitoring and reporting process is essential to ensure that appropriate measures are being taken to address the issue of illegal and unauthorised constructions.

11. With the above discussions and directions, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions is closed. Registry shall mark a copy of this order to The District Collector, Tiruppur.

(D.K.K., J.) (P.D.B., J.)

20.06.2023

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Internet: Yes

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To

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Government of Tamil Nadu,
Fort St George, Chennai 600 009
- 2 The Commissioner
Palladam Municipality,
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Palladam, Tiruppur District

Copy to :
The District Collector,
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