



W.P.No.17126 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

W.P.No.17126 of 2022

A.Mohamed Shaik Alaudeen

... Petitioner

Vs.

1. The District Collector,
District Collector Office,
Nagapattinam.

2. The Director,
Directorate of Municipal Administration,
75 Urba Administrative Building,
Santhome High Road, MRC Nagar,
Raja Annamalaipuram,
Chennai - 600 028.

3. The Commissioner,
Nagapattinam Municipality,
Nagapattinam.

4. Shahidha Nasreen

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 and 3 to issue a direction to take action against the 4th respondent based on the Show



W.P.No.17126 of 2022

Cause notice issued by the 3rd respondent dated 03.01.2022

For Petitioner : Mr.Swami Subramanian

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader for R1
Mr.A.Selvendran,
Special Government Pleader for R2
Mr.P.Srinivas,
Standing Counsel for R3
Mr.T.Ananthasekar for R4

ORDER

This writ petition has been filed seeking for a direction to the respondents 1 to 3 to take action against the 4th respondent, based on the show cause notice issued by the 3rd respondent dated 03.01.2022.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of a residential house at No.2/415, Kosa Marakayar Street, Nagoor, Nagapattinam District and the 4th respondent had constructed a Commercial Colony house on the southern side of the petitioner's house in the total plot area, without following the due process of law and not leaving setback, ventilation facility etc. which creates much disturbance to the petitioner as well as his neighbours. Therefore, the petitioner made representation dated 22.10.2021 to the surveyor and the 1st respondent to direct the 3rd respondent to stop the illegal



W.P.No.17126 of 2022

construction of the 4th respondent. Subsequently, the 3rd respondent had sent a letter dated 04.01.2022 to the petitioner stating that on 03.01.2022, a notice under section 205(1)(2) of Tamil Nadu District Municipalities Act, 1920, was issued by him to the 4th respondent to alter the construction work within 15 days from the date of notice as per the approved plan. Thereafter, there was no progress in the matter. Hence, the petitioner is before this Court seeking the aforesaid relief.

3. Learned counsel appearing for the 4th respondent is present before this Court and he has also filed a counter. At paragraph No.8 of the counter filed by the 4th respondent, it has been stated that while constructing the building, there was a small deviation (4" x 39") from the approved plan and permit, issued by the Municipal Commissioner, Nagapattinam and that the deviation is rectifiable and it is within permissible limits as per the norms of the Municipal Commissioner and that he reserves his right to file appropriate application and give proper explanation to the 3rd respondent.

4. Considering the facts and circumstances of the case, a direction is issued to the 3rd respondent to conduct an enquiry and pass a final order in respect of the show cause notice dated 03.01.2022, on merits



W.P.No.17126 of 2022

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and in accordance with law, after affording due opportunity of hearing to the 4th respondent as well as the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs.

(J.N.B,J.) (N.M., J.)
17.07.2023

Index : Yes / No
vsi

To

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W.P.No.17126 of 2022

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W.P.No.17126 of 2022

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