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W.P.No.2953 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.2953 of 2018

A.Ahmed Mohideen

.. Petitioner

Vs.

1.The Commissioner,
Mettupalayam Municipality,
Coimbatore District.

2.The Assistant Director,
Office of Town & Country Planning,
Coimbatore Zone,
Corporation Building Campus,
Dr.Nanjappa Salai,
Coimbatore – 641 018.

3.The Assistant Engineer,
TANGEDCO,
Co-operative Colony,
2nd Street,
Muttupalayam,
Coimbatore District.

4.Manjula

5.K.Chandrasekaran

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to disconnect EB supply and demolish the unauthorised constructions made by the respondents 4 & 5 at Door No.4/3, 4/3A & 4/3A1, Old Kothagiri Road, Odandurai Village, Mettupalayam, Coimbatore District, comprised in Old Ward No.3, New Ward No.1, bearing Patta No.118 in T.S.No.81, Ward A-Block-3, bearing EB Service Connection No.40044 & 40991, within a time frame fixed by this Court.

For Petitioner	: Mr.R.Veeramani
For R1	: Mr.B.Anand
For R2	: Ms.R.L.Karthika Government Advocate
For RR 4 & 5	: Mr.T.Karunakaran

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 to 3 to disconnect EB supply and demolish the unauthorised constructions made by the respondents 4 & 5 at Door No.4/3, 4/3A & 4/3A1, Old Kothagiri Road, Odandurai Village, Mettupalayam, Coimbatore District, comprised in Old Ward No.3, New



Ward No.1, bearing Patta No.118 in T.S.No.81, Ward A-Block-3, bearing EB Service Connection No.40044 & 40991, within a time frame fixed by this Court.

2.The grievance of the petitioner is that the respondents 4 & 5 have constructed building in deviation from the approved plan and also put up unauthorized construction in the 2nd floor without any approval. The building put up by the 4th respondent is within 100 meters from the Bhavani River and as per G.O.Ms.No.175, Department of Housing and Urban Development, dated 14.07.2006, the approval given by the 1st respondent is contrary to the said G.O.

3.The learned counsel appearing for the petitioner submitted that the 1st respondent in connivance with the respondents 4 & 5, refused to grant building permission for the petitioner's property. The 4th respondent filed W.P.No.27603 of 2017 for demolition of the petitioner's property. The Division Bench of this Court, on 08.01.2018, passed an exparte order directing the 1st respondent therein to demolish the building and disconnect electricity connection. The 1st respondent is not taking any action on the representation given by the petitioner against the



unauthorised construction put up by the 4th respondent. Hence, the petitioner has come out with the present Writ Petition.

4.The 1st respondent filed counter affidavit.

5.The learned counsel appearing for the 1st respondent submitted that by inadvertence and mistake, building plan and approval was granted for ground + 1 floor to the 4th respondent. The officials of the 1st respondent inspected the property constructed by 4th respondent and found that the 4th respondent has constructed in deviation from the approved plan and also put up two additional floors. He further submitted that the 1st respondent will inspect the property and take appropriate action as per the order of this Court and prayed for passing suitable orders.

6.The 4th respondent filed counter affidavit and typed set of papers.

7.The learned counsel appearing for the respondents 4 & 5 submitted that the construction put up by 4th respondent is of the year 1976. G.O.Ms.No.175, Department of Housing and Urban Development,



dated 14.07.2006, relied on by the petitioner is not applicable to the case of the petitioner. The 4th respondent has not put up any new construction, but he has only renovated the building by changing the RCC roof. Due to enmity, the petitioner has come out with the present Writ Petition. The officials of the 1st respondent inspected the property without issuing any notice to the respondents 4 & 5. He further submitted that the 4th respondent also obtained revised plan for change of RCC roof and prayed for dismissal of the Writ Petition.

8. Heard the learned counsel appearing for the parties and perused the entire materials on record.

9. From the materials on record, it is seen that on inspection by the officials of the 1st respondent, it was found the following deviations in the construction put up by 4th respondent as mentioned in the counter affidavit filed by 1st respondent:

1. Mrs. Manjula constructed building violates the building Rule No. 112(A) by not providing front set back.



2.That means of constructed building have not provided 1/4th of open space around the site area.

3.Ventilation for habitual rooms not provided, this violates the Building Rule No.14(1).

4.Side open space around the building site not provided, this violates the Building Rule No.14(3).

5.The building area constructed building on itself is violating the Rule No.11(4).

The 1st respondent also admitted that by inadvertence and mistake, the application for building plan submitted by the 4th respondent was approved contrary to G.O.Ms.No.175, Department of Housing and Urban Development, dated 14.07.2006.

10.In view of the above submissions made by the learned counsel appearing for the parties, the 1st respondent is directed to inspect the properties of the petitioner as well as respondents 4 & 5 within a period of two weeks from the date of receipt of a copy of this order, after issuing notice to the petitioner and respondents 4 & 5 and if any deviation and unauthorized construction is found as stated in the counter affidavit, the



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1st respondent is directed to take appropriate action, within a period of eight weeks thereafter. The 1st respondent is also directed to take appropriate proceedings, if the approval granted by the 1st respondent is contrary to G.O.Ms.No.175, Department of Housing and Urban Development, dated 14.07.2006, for cancelling the approval, after hearing the respondents 4 & 5.

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

(V.M.V., J) (V.L.N., J)

15.03.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

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Coimbatore District.

2.The Assistant Director,
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and

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3.The Assistant Engineer,
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