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W.P.No.22728 of 2023

1IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

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

**W.P.No.22728 of 2023
and W.M.P.No. 22177 & 22178 of 2023**

K.S.Sreenivasan

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development Department
Fort St. George, Secretariat
Chennai-600009

2. The Commissioner
Palladam Municipality
Trichy Road, Palladam
Tiruppur

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to Call for the records relating to the notice dated 23.06.2023 under Notice No. 1185/ 2020 /F1 of the 2nd Respondent in respect of the building at Door No.122, 122A, and 123A to 123L, Trichy main Road, Palladam (Natham Old Survey No. 263/1A2, New S.FNo. 478/20, Palladam Taluk, Tiruppur District) and quash the same.



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For Petitioner : Mrs.A.L.Gandhimathi
Senior Counsel
for Mr.L.Palani Muthu

For Respondents : Mr.T.Sampath Kumar for R1
Government Advocate
Mr.B.Anand for R2
Standing Counsel

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed praying to call for the records relating to the notice dated 23.06.2023 under Notice No. 1185/ 2020 /F1 of the 2nd Respondent in respect of the building at Door No.122, 122A, and 123A to 123L, Trichy main Road, Palladam (Natham Old Survey No. 263/1A2, New S.FNo. 478/ 20, Palladam Taluk, Tiruppur District) and quash the same.

2. It is averred in the writ petition that the petitioner is the absolute owner of the property to an extent of 7003 Sq.ft in New Survey No. 478/20, Old Survey No.263/1A2, Trichy Road, Palladam. The said property was purchased by the petitioner's father by way of registered sale deed dated 29.03.1996. After obtaining planning permission for the construction on



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31.08.2004 under planning permission No.155 of 2004, another planning permission was also obtained in respect of the construction in the said property vide proceedings dated 29.10.2004 under planning permission No.176/2004-2005 from the 2nd respondent herein.

(ii). As such, after obtaining the planning permission, the petitioner's father has put up constructions and the petitioner and his brother are running the business in the said property and major portions of the property has also been let out to various tenants.

(iii). Subsequent thereto, the adjacent owner of the petitioner put up constructions by violating the building permission and by causing danger and disturbance to the building of the petitioner. Hence, the petitioner made representations to the respondents regarding the unauthorized and illegal constructions being put up by his neighbour. Thereafter, the petitioner had filed two writ petitions in W.P.Nos.4402 of 2020 and 4809 of 2020 praying for a writ of mandamus directing the 3rd respondent therein to take action against the respondents 4 and 5 therein on the basis of the petitioner's representation dated 24.01.2020 alleging that they have started the construction in 2019 without leaving any space either in the front side or on the western side of the petitioner's building. The said writ petition came up



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for hearing before this Court and a status report was directed to be filed before this Court by the respondents therein. This Court vide order dated 21.06.2022 disposed of the writ petition observing that "*the status report filed by the 3rd respondent very clearly indicates that the private respondents had put up illegal construction thereby violating the building plans and not only the private respondents, but also the petitioner made violations, the 3rd respondent therein was directed to take action against both the parties viz. petitioner and the private respondents after giving proper notice.*"

3. Pursuant to the said orders of this Court, the 2nd respondent herein issued a notice dated 08.08.2022 under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and Section 216, 340 and 344 of the District Municipalities Act 1920, calling upon the petitioner to provide the approved plan in respect of the building of the petitioner failing which further action will be taken as per the provisions. Therefore, the petitioner filed an application under Section 113 – C of the Tamil Nadu Town and Country Planning Act, 1971 (in short “the Act”) for regularisation on 24.12.2020. Since no action has been taken on the side of the official respondents, the petitioner has filed the present Writ Petition.



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4. Heard the learned counsel on either side and perused the materials available on record.

5. It is submitted that the petitioner has filed an application for regularisation u/s.113-C of the Tamil Nadu Town and Country Planning Act, before the Directorate of Town and Country Planning in the year 2020 itself. In the meantime, the Government Order permitting regularisation is set aside by this Court and now, the matter is subjudice before the Hon'ble Supreme Court.

6. The learned Standing Counsel appearing for the 2nd respondent relied on the judgment of this court dated **27.07.2023 in W.P.No.9725 of 2017** and prayed this court to take a similar view in this matter.

7. The Hon'ble First Bench of this court in *W.P.No.9725 of 2017 by order dated 27.07.2023 [K.Perumal Vs. The State of Tamil Nadu, Rep.by the Secretary to Government and others]*, while dealing with the writ petitions



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seeking directions to enforce the locking and sealing and demolition notice,
held as under:-

“3.We have disposed of other writ petitions, with an observation that, “if subsequently after the orders are passed by the Apex Court and the petitioners have any remedy open, they are entitled to agitate the same afresh. In that event, all contentions are kept open”. We have observed that the parties may take steps pursuant to the judgment of the Apex Court.

4.In case, after the judgment of the Apex Court, if it is found that the fifth respondent is not entitled for regularisation, then the petitioner may agitate afresh.”

8. In view of the fact that the matter regarding regularization is seized of by the Hon'ble Supreme Court, the petitioner as well as the respondents have to await the orders of the Supreme Court. They are entitled to agitate the issue afresh after the orders are passed by the Supreme Court, on the subject matter. Till then, the respondents are directed not to take any coercive step



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against the petitioner. Accordingly, the writ petition is allowed. No costs.

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Consequently connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
12.10.2023

msv

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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