



WEB COPY



W.P.No.23895 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.23895 of 2017
and W.M.P.Nos.25147 & 10021 of 2018

P.Selvarajan

.. Petitioner

Vs.

1.The Commissioner
Directorate of Town and Country Planning
Chengalvarayan Building
4th floor, 807, Anna salai
Chennai-600 002.

2.The Zonal Director
Directorate of Town and Country Planning
Salem Region
5, Sannathi street
Subramaniaya Nagar
Suramangalam, Salem-636 005.

3.The Commissioner
Attur Municipality
Municipality Office
Attur-636 102.
Salem District.

4.S.Saroja

.. Respondents



W.P.No.23895 of 2017

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the 3rd respondent to comply the order dated 12.07.2017 made in Na.Ka.No.1454/2017/SM-3 passed by the 2nd respondent based on the petitioner representation dated 15.05.2017.

For Petitioner	: Mr.S.Patrick
For R1 & R2	: Mr.R.Vigneshwaran Government Advocate
For R3	: Mr.B.Anand
For R4	: Mr.V.Shanmuga Sundar

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 3rd respondent to comply the order dated 12.07.2017 passed by the 2nd respondent based on the petitioner's representation dated 15.05.2017.

2. According to the petitioner, the 4th respondent has obtained permission for construction of non-residential building in ground & first



floors measuring each 654 sq.ft. Contrary to the said approved plan, the 4th respondent constructed in total violation of the approved plan up to four floors. The petitioner made a representation dated 15.05.2017 to the respondents 1 to 3 to take action against the 4th respondent for unauthorised construction. The 2nd respondent by the proceedings dated 12.07.2017 directed the 3rd respondent to take action to inspect the property of the 4th respondent and if there is any unauthorised construction, directed to take necessary action against the 4th respondent. As per the order of the 2nd respondent, the 3rd respondent inspected the premises and issued notice under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971 dated 20.07.2017 for locking & sealing of the unauthorised construction put up by the 4th respondent. Subsequently, the respondents 2 & 3 did not take further proceedings and hence, the petitioner has come out with the present Writ Petition.

3. The 2nd respondent filed counter affidavit in May 2018 and submitted that 4th respondent obtained permission for construction of double storey commercial building in T.S.No.9, Block No.25, Ward D of Attur Municipality for construction of 654 sq.ft. each in ground & first floors in the plot measuring 1551 sq.ft. The 4th respondent in deviation of



the approved plan, constructed 1452 sq.ft. in the ground floor and 1551 sq.ft. in the first floor. The 4th respondent also constructed second, third & fourth floors measuring to the extent of 1551 sq.ft., 1551 sq.ft. and 676 sq.ft. respectively without any approval and without providing any side setbacks and parking as per the Development Control Rules (DCR). On receiving complaint from the petitioner, the 2nd respondent directed the 3rd respondent to take action, both the respondents 2 & 3 have taken joint action and locked & sealed the premises of the 4th respondent.

4. The 2nd respondent also filed status report in January 2019 and stated that the 4th respondent has filed two applications through online for regularisation. The said applications were returned for want of details of documents such as plans, stability certificates, fire NOC etc. as per the check list.

5. The 3rd respondent filed counter affidavit and submitted that this Court by the order dated 13.02.2018 directed the 2nd respondent to lock & seal the second, third & fourth floors of the premises and directed the Assistant Engineer, Tamil Nadu Electricity Board to disconnect the electricity service connection to the second, third & fourth floors. As per



the order of this Court, the 2nd respondent issued notice dated 05.03.2018 to the 4th respondent intimating the locking & sealing of the second, third & fourth floors and notice was affixed in the petition premises. The 4th respondent removed all the goods on 05.03.2018. The 3rd respondent also locked & sealed the second, third & fourth floors on 06.03.2018.

6. The 4th respondent filed W.M.P.No.10021 of 2018 for a direction to the respondents 2 & 3 to de-seal the premises and direct the Assistant Engineer, Tamil Nadu Electricity Board, to give electricity service connection to her premises pending disposal of the application for regularisation. The learned counsel appearing for the 4th respondent submitted that the 4th respondent has submitted the application on 25.02.2018 through online for regularisation of the unauthorised construction of second, third & fourth floors and prayed for a direction to de-seal the premises pending application for regularisation.

7. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 & 2 and the learned counsel appearing for the respondents 3 & 4 and perused the entire materials on record.



8. From the materials on record, it is seen that the 4th respondent obtained permission for construction of ground & first floors each measuring 654 sq.ft. Deviating from the approved plan, the 4th respondent has constructed 1452 sq.ft. in the ground floor and 1551 sq.ft. in the first floor. It is the case of the petitioner that the 4th respondent without any permission has put up construction in second, third & fourth floors measuring to the extent of 4653 sq.ft. According to the respondents 2 & 3, the 4th respondent constructed ground and first floor in deviation from the approved plan and has not provided any side setbacks. In the present Writ Petition, this Court by the order dated 13.02.2018, directed the 2nd respondent to lock & seal the second, third & fourth floors of the 4th respondent's premises and directed the Assistant Engineer, Tamil Nadu Electricity Board to disconnect electricity service connection to the second, third & fourth floors. As per the order of this Court, the respondents 2 & 3 locked & sealed the second, third & fourth floors on 06.03.2018 and the Assistant Engineer, Tamil Nadu Electricity Board also disconnected electricity service connection to the said floors. Learned counsel appearing for the 4th respondent submitted that the 4th respondent has submitted the revised plan to the 2nd respondent for regularisation. On the other hand, it is the case of the 2nd respondent that



regularisation application submitted by the 4th respondent was returned for want of documents. After such return, the 4th respondent has not resubmitted the application with necessary particulars as per the check list.

9. As per the order of this Court, the respondents 2 & 3 locked & sealed the second, third & fourth floors of the 4th respondent. In view of locking & sealing of second, third & fourth floors of the 4th respondent as per the earlier orders of this Court, no further order is necessary with regard to second, third & fourth floors. The respondents 2 & 3 are directed to inspect the property of the 4th respondent with regard to construction of ground & first floors in deviation from the approved plan, within a period of two weeks from the date of receipt of a copy of this order, after issuing notice to the petitioner as well as 4th respondent and if there is any unauthorised construction deviating from the approved plan as per the counter affidavit filed by the 2nd respondent, take appropriate proceedings as per the law within a period of four weeks thereafter.

10. Learned counsel appearing for the 4th respondent submitted that 4th respondent has not removed all the goods kept in the second, third &



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fourth floors of the premises. The 4th respondent may be permitted to remove all the goods and prayed for a direction to the respondents 2 & 3 for de-sealing the premises to enable the 4th respondent to remove all the goods.

11. In view of the above submissions, the respondents 2 & 3 are directed to de-seal the premises within a period of one week from the date of receipt of a copy of this order and permit the 4th respondent to remove all the things and reseal the premises within one week. It is open to the 4th respondent to resubmit the application for regularisation along with relevant documents.

12. With the above observations, this Writ Petition is disposed of.
No costs. Consequently, connected Miscellaneous Petitions are closed.

(V.M.V., J) (V.L.N., J)
14.03.2023

Index : Yes / No
Neutral Citation : Yes / No

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