



W.P.(MD) No.317 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.317 of 2023
and W.M.P.(MD)No.314 of 2023

1.P.Ashwath Raja
2.Mrs.Jayashree Shyam Shankar ... Petitioners

Vs.

1.The Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District - 626 117.

2.T.V.Alagar Raja ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the official respondents to forbear the 2nd respondent from putting up any unauthorized construction in the subject property measuring 23 cents in T.S.No.58 and 31.75 cents in T.S.No.55 in Block

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WEB COPY No.7 in Ward C corresponding to old Revenue Survey Number 297 in Dharmapuram, Pappu Raja Street, Rajapalayam without obtaining any planning permission from 1st respondent Municipality or from any other statutory authority.

For Petitioners : Mr.S.Ramesh

For Respondents : Mr.N.Dilip Kumar,
Standing Counsel for R1

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the official respondents to forbear the 2nd respondent from putting up any unauthorized construction in the subject property measuring 23 cents in T.S.No.58 and 31.75 cents in T.S.No.55 in Block No.7 in Ward C corresponding to old Revenue Survey Number 297 in Dharmapuram, Pappu Raja Street, Rajapalayam without obtaining any planning permission from the 1st respondent Municipality or from any other statutory authority.



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2. Heard Mr.S.Ramesh, learned counsel for the petitioner and Mr.N.Dilipkumar, learned Standing Counsel, who takes notice for the first respondent. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the 2nd respondent is dispensed with.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. The learned counsel for the petitioner submitted that the first petitioner is the power agent of the second writ petitioner and the petitioners' mother has filed a suit in O.S.No.79 of 2018 before the District Court, Virudhunagar District for partition and the consequential relief of permanent injunction. The said suit was dismissed for default and the petitioners have filed an application for restoration of the said suit. He further submitted that taking advantage of the dismissal of the suit, the 2nd respondent is attempting to put up construction in the subject property. Hence, the petitioner made a representation on 06.11.2022, seeking for action to remove the unauthorised construction of the building in the



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aforesaid subject matter of property. But, till date no action has been taken by the respondents for removal of the said unauthorised construction. Hence, the petitioner has filed this writ petition.

5. The learned Standing Counsel appearing for the first respondent submitted that the second respondent has not filed any application for construction of the building, but he has constructed only a temporary shed for vehicle parking. He further submitted that if any illegal construction is made by the second respondent, the first respondent will take necessary action for removal of the same.

6. Recording the aforesaid submission, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

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NCC : Yes / No

Index : Yes / No

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To

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