



W.P(MD)No.1637 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.1637 of 2023
and
W.M.P(MD)No.1481 of 2023**

V.Sebastian

... Petitioner

VS.

- 1.The District Collector,
Nagercoil,
Kanyakumari District.
- 2.The Assistant Director,
Assistant Director of Village Panchayat,
O/o.Collectorate, Nagercoil,
Kanyakumari District.
- 3.The Assistant Director,
Urban Planning,
O/o. The Collectorate,
Nagercoil,
Kanyakumari District.
- 4.The Block Development Officer,
O/o.The Block Development Office,
Thiruvattar Panchayat Union,
Thiruvattar,
Kanyakumari District.



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5.The President,
Kattathurai Village Panchayat,
Kattathurai,
Kanyakumari District.

6.Southern Bible College,
Represented by Rev. Devadasan,
Assembly of God Sabai,
Kalluvilai,
Mulagumoodu,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 herein to inspect the construction put up by the sixth respondent herein in the property comprised in R.S.Nos.554/10, 565/4 situate at Veeyanoor 'A' Village, Thiruvattar Taluk, Kanyakumari District and to initiate demolition action against the sixth respondent for the illegal construction and deviation in the on-going construction made in the property of the sixth respondent comprised in R.S.Nos.554/10, 565/4 situate at Veeyanoor 'A' Village, Thiruvattar Taluk, Kanyakumari District, on the basis of the petitioner's representations, dated 19.12.2022 and 29.12.2022 within the time stipulated by this Court.

For Petitioner	: Mr.C.Kishore
For RR 1 to 3	: Mr.K.Balasubramani Special Government Pleader
For RR 4 & 5	: Mr.M.Sarangan Standing Counsel
For R – 6	: Ms.Jasima Yasmin for M/s.Ajmal Associates



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to inspect the construction put up by the sixth respondent herein in the property comprised in R.S.Nos. 554/10, 565/4 situate at Veeyanoor 'A' Village, Thiruvattar Taluk, Kanyakumari District and to initiate demolition action against the sixth respondent for the illegal construction and deviation in the on-going construction made in the property of the sixth respondent comprised in R.S.Nos.554/10, 565/4 situate at Veeyanoor 'A' Village, Thiruvattar Taluk, Kanyakumari District, on the basis of the petitioner's representations, dated 19.12.2022 and 29.12.2022.

2.When the matter came up for hearing on 30.01.2023, this Court passed the following order:-

"The petitioner has made an allegation that the 6th respondent has violated the planning permission granted by the authority concerned for construction of the house and now, constructed a college therein.



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2.Mr.K.Balasubramani, learned Special Government Pleader takes notice for the respondents 1 to 3 and Mr.M.Sarangan, learned Standing Counsel takes notice for the respondents 4 and 5.

3.Ms.Jasima Yasmin, learned counsel, who takes notice for the 6th respondent, objects that the 6th respondent has not constructed the college and as per the plan approval, they constructed quarters for the staff.

4.This disputed fact has to be clarified by the authority concerned. Therefore, we direct the respondents 4 and 5 to inspect the property in question and examine whether the 6th respondent has unauthorizedly constructed the building contrary to the approval granted by the authority concerned and file a report before this Court on the next hearing date. It is needless to mention that the respondents 4 and 5 shall also take necessary photographs in the building in question.

5.Post the matter after two weeks for filing report by the respondents 4 and 5."



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3.Pursuant to the said order, dated 30.01.2023, the fourth respondent filed a report, wherein, it is stated that during inspection, it was found that the sixth respondent has constructed 2206 square feet in the stilt floor, but approval has been granted only for 2017 square feet. According to the fourth respondent, there is a deviation of around 200 square feet in the said construction of the building.

4.Based on the said report, the learned counsel appearing for the petitioner heavily contended that the approval has been granted by the authority concerned only for the construction of the residential purpose, but now the sixth respondent has constructed the said property for other purposes, namely, religious purposes. Therefore, according to the petitioner, the said building cannot be converted to any other purpose, other than the residential purpose and the construction of the said building is in violation of the said approval.

5.The learned counsel appearing for the sixth respondent submitted that the entire allegation of the petitioner is totally false and the same is denied. According to the learned counsel appearing for the sixth respondent, they are constructing the building for a residential house for



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staff quarters and further undertakes that the sixth respondent will not deviate from making any construction contrary to the approval granted by the authority concerned. Therefore, the Writ Petition is filed only on presumptions and assumptions before this Court and the same is liable to be rejected.

6.The learned standing counsel appearing for the respondents 4 and 5 submitted that if there is any violation made by the sixth respondent in constructing the said building, the authority concerned will take necessary action for such deviation of the building and further submitted that on verification it was found that there was 200 square feet deviation by way of excess construction in the said approval. The learned standing counsel appearing for the respondents 4 and 5 also assured before this Court that for the violation and for the said deviation, necessary action will be taken.

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



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8.From the materials available on record, it is seen that the petitioner's house is situated adjacent to the sixth respondent's building and therefore, he has filed the present Writ Petition, without making any verification, stating the said building has been utilised for other purposes than the residential purpose. At this stage, we are not inclined to accept the contention of the petitioner.

9.In view of the statement made by the parties, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. However, if there is any violation in the building approval, liberty is granted to the petitioner to approach the authority concerned in the manner known to law, if he is so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [L.V.G.,J.]
24.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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D. KRISHNAKUMAR,J.
and
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ORDER MADE IN
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