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W.P.(MD) Nos.4982 & 5052 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) Nos.4982 & 5052 of 2023

W.P.(MD) No.4982 of 2023:

R.Chithiravel

... Petitioner

-VS-

- 1.The District Collector
Collectorate Campus
Thoothukudi District
Thoothukudi
- 2.The Assistant Director (Panchayats)
District Collectorate Campus
Thoothukudi
Thoothukudi District
- 3.The Block Development Officer
Panchayat Union Office
Villathikulam
Thoothukkudi District



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4.M/s.Baskar Cement and Products
rep.by its Authorized Officer
Mela Shanmugapuram
Vilathikulam Taluk, Thoothukkudi District

5.The Deputy Director
Town and Country Planning
Thoothukudi

... Respondents

[R5 is *suo motu* impleaded *vide* Court
order dated 08.03.2023 in W.P.(MD) No.
4982 of 2023]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to take necessary action against the fourth respondent in accordance with law either to regularize the illegal construction of 7000 sq.ft. building of M/s.Baskar Cements and Products, on levy of appropriate fees and penalty or to take action to close down the M/s.Baskar Cements and Products, constructed in S.F.No.60/2B situated at Mela Shanmugapuram Village, Vilathikulam Taluk, Thoothukudi District, based on the petitioner's last representation dated 02.11.2022.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader for R1, R2 & R5
Mr.V.Nirmal Kumar
Government Advocate for R3
Ms.Porkodi Karnan for R4



W.P.(MD) Nos.4982 & 5052 of 2023

W.P.(MD) No.5052 of 2023:

R.Chithiravel

... Petitioner

-vs-

- 1.The District Collector
Collectorate Campus
Thoothukudi District
Thoothukudi
- 2.The Assistant Director (Panchayats)
District Collectorate Campus
Thoothukudi
Thoothukudi District
- 3.The Block Development Officer
Panchayat Union Office
Villathikulam
Thoothukkudi District
- 4.M/s.Pearl Cold Storage
rep.by its Authorized Officer
Keela Shanmugapuram
Vilathikulam Taluk
Thoothukkudi District
- 5.The Deputy Director
Town and Country Planning
Thoothukudi
- 6.The Assistant Engineer
TANGEDCO
Soorangudi
Vilathikulam Taluk
Thoothukudi District
[R5 & R6 are *suo motu* impleaded *vide*
Court order dated 09.03.2023 in W.P.
(MD) No.5052 of 2023]

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to take necessary action against the fourth respondent in accordance with law either to regularize the illegal construction of 55,000 sq.ft. building of M/s.Pearl Cold Storage on levy of appropriate fees and penalty or to take action to close down the M/s.Pearl Cold Storage, constructed in S.F.No.89/3B, 3C and 3D situated at Keela Shanmugapuram Village, Vilathikulam Taluk, Thoothukudi District, based on the petitioner's last representation dated 02.11.2022.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader for R1, R2 & R5
Mr.V.Nirmal Kumar
Government Advocate for R3
Mr.B.Saravanan, Senior Counsel
assisted by Mr.S.Ramsundar Vijayaraj for R4
Mr.S.Deenadhayalan
Standing Counsel for R6



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COMMON ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Pursuant to our order dated 06.04.2023, the District Collector, Tuticorin District, the Block Development Officer, Vilathikulam, Tuticorin District, the Deputy Director of Town and Country Planning Authority, Tuticorin, and the Assistant Engineer, TANGEDCO, are present in Court.

2. A very peculiar prayer has been sought for in these writ petitions by none else than the President of the Panchayat, where unauthorized development has taken place.

3. In W.P.(MD) No.5052 of 2023, it is claimed that an unauthorized construction to the extent of 55,000 sq.ft., has been made, without any permission from the Town and Country Planning Authority.

4. In W.P.(MD) No.4982 of 2023, it is claimed that the unauthorized construction measures about 7,000 sq.ft.

5. Since we felt that such unauthorized developments could not take place under the nose of the Authorities, who are burdened with the duty



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to stop the unauthorized developments, we had, by order dated 06.04.2023, required the District Collector, Tuticorin District, the Block Development Officer, Vilathikulam, Tuticorin District, the Deputy Director of Town and Country Planning Authority, Tuticorin and the Assistant Engineer, TANGEDCO, Soorangudi, Vilathikulam Taluk, Thoothukudi District, to be present before this Court in person, just to impress upon them the need for implementing the regulatory statute, particularly, the Tamil Nadu Town and Country Planning Act, 1971 (for brevity, “the Act”).

6. Without hesitation, we must point out that this Court is burdened with litigations relating to removal of unauthorized constructions, either by the public-spirited persons, like, the present petitioner or by the violators themselves challenging the action taken under the enactment. It is the high time the district level officers to put their heads together and evolve a mechanism for effective implementation of the provisions of the Act, particularly, at the grass-roots level. The District Collector, Tuticorin District, and the Director of Town and Country Planning Authority, Tuticorin, are required to put their heads together and evolve a mechanism, by which the field level officers will be held responsible for not duly reporting any unauthorized construction taking place within their jurisdiction. We are sure



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that if any action is initiated against one or two such officials, who tend to gloss over unauthorized developments, the others will automatically fall in line and report the unauthorized constructions to the authority concerned immediately. We, therefore, require the District Collector, Tuticorin District, and the Director of Town and Country Planning Authority, Tuticorin, to evolve a Standard Operating Procedure (SOP), by which responsibility could be fixed on the field level officers for duly reporting unauthorized development taken place within their jurisdiction. The District Collector, who is present in person, assures us that he would do the needful immediately. We place on record our appreciation for the positive response by the District Collector.

7. As regards the cases on hand, learned counsel for the violators, namely, fourth respondent in each of the writ petitions, Mr.B.Saravanan, learned Senior Counsel, appearing for the fourth respondent in W.P.(MD) No. 5052 of 2023 and Ms.Porkodi Karnan, learned counsel, appearing for the fourth respondent in W.P.(MD) No.4982 of 2023, would submit that they had applied for permission and they have got all other certificates, except planning permission. They would also contend that their applications for planning permission are pending.



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8. Mr.Veera Kathiravan, learned Additional Advocate General, appearing for the respondents 1, 2 & 5 in both writ petitions, upon instructions, would submit that though the fourth respondent in both writ petitions applied for grant of planning permission in the year 2021, their applications were returned for certain compliances and the same have been re-presented through online only on 10.04.2023.

9. Be that as it may, the buildings, as of today, are unapproved. Therefore, it is open to the authorities to take appropriate action under the provisions of the Act.

10. In the light of the above, there will be a mandamus requiring the Town and Country Planning Authority, namely, the Deputy Director of Town and Country Planning Authority, Tuticorin, to take appropriate action under the Act for the violations that have been noticed. Needless to point out that if such action is taken, the fourth respondent in both writ petitions will be entitled to seek whatever remedy they have under law, either for retention of the buildings or for getting a *post facto* approval.



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11. The writ petitions are disposed of with the above directions. It is made clear that if any future unauthorized development of such magnitude is allowed, this Court will not hesitate to recommend disciplinary action against the field level officers, who are responsible for not reporting violations.

No costs.

[R.S.M., J.]

[L.V.G., J.]

12.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The District Collector,
Collectorate Campus,
Thoothukudi District,
Thoothukudi.
- 2.The Assistant Director (Panchayats),
District Collectorate Campus,
Thoothukudi,
Thoothukudi District.
- 3.The Block Development Officer,
Panchayat Union Office,
Villathikulam, Thoothukkudi District.
- 4.The Deputy Director,
Town and Country Planning,
Thoothukudi.



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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12.04.2023