



W.P.( MD) No.7565 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 03.04.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**AND**

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.P. (MD) No.7565 of 2023**

**and W.M.P. (MD) Nos.7049 and 7050 of 2023**

Asiya Begum

... Petitioner

Vs.

1. The Member Secretary,  
The Tuticorin Town and Country Planning Authority,  
No.51, West Car Street,  
Tuticorin.

2. The Commissioner,  
Kayalpattinam Municipality,  
Kayalpattinam,  
Tuticorin.

...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order made by the 2<sup>nd</sup> respondent in NA.KA.No. 441/2020/F1 dated 28.03.2023 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff



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For Respondents : Mr.V.Nirmal Kumar  
Government Advocate

**ORDER**

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The Writ Petition has been filed challenging the order passed by the 2<sup>nd</sup> respondent in Na.Ka.No.441/2020/F1 dated 28.03.2023.

2. Heard Mr.M.Mahaboob Athiff, learned counsel for the petitioner, who has complained that, there was no compliance within the meaning of Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971.

3. Though in this regard Mr.V.Nirmal Kumar, learned Government Advocate, who takes notice for the respondents has submitted that on 25.02.2022 notice under the provisions of the Tamil Nadu District Municipalities Act, 1920 had been issued, no specific notice invoking Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, has been issued.



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4. In this context, the learned counsel for the petitioner relied upon a Division Bench Judgment in the matter of *A.Manickavel v. The District Collector, Tuticorin District* reported in *2017(1) CWC 288*, where the previous notice, since has been given under Section 56(1)(b) dispensing with the minimum of 30 days notice of the said Act, has been dealt with.

5. In view of the above stated legal as well as factual position, this Court feels that the order impugned would not stand in the legal scrutiny and therefore, we are inclined to pass the following order:-

That the impugned order is set aside and the matter is remitted back to the respondents for reconsideration. The first respondent shall give notice by complying with Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, i.e., 30 days notice and after getting the reply from the petitioner within the said time further course of action in accordance with law can be taken by the first respondent



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6. With these directions, this Writ Petition is disposed of.

However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

**(R.S.K., J.) & (K.K.R.K, J.)**

**03.04.2023**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

SJ

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**R.SURESH KUMAR, J.**

**AND**

**K.K.RAMAKRISHNAN, J.**

SJ

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