



W.P.(MD)No.3140 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

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C.Titus Mathan Kumar

... Petitioner

Vs.

1.The District Collector,  
Madurai District, Madurai.

2.The Commissioner,  
Madurai Corporation,  
Madurai.

3.M.Kottaisamy

4.T.S.K.Shanmugam

5.R.Balamurugan

6.B.Saradha

...Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 forthwith to take action to demolish the offending unlawful construction which is illegally put up by the respondents 3 to 6 in R.S.No.22/6B, 2B, the Plot Nos.6, 16 and 18 in an extent of 8437.5 Sq.Ft, Vilangudi Village, Madurai North Taluk, Madurai.



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For Petitioner : M.J.John  
For R1 : Mr.S.Shanmugavel,  
Additional Government Pleader  
For R2 : Mr.Veera Kathirvan,  
Additional Advocate General,  
assisted by Mr.K.Manisekaran,  
Standing Counsel  
For R3 : Mr.Arjun  
for Mr.N.Vallinayagam  
For R4 : Mr.C.M.Arumugam  
For R5 & R6 : Mr.A.Kannan

### **ORDER**

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

This Writ Petition has been instituted to direct the respondents 1 and 2 forthwith to take action to demolish the unauthorized construction illegally put up by the respondents 3 to 6 in R.S.No.22/6B, 2B, Plot Nos.6, 16 and 18 to an extent of 8437.5 Sq.Ft, situated at Vilangudi Village, Madurai North Taluk, Madurai.

2.The petitioner claims that he is the owner of the property in R.S.No.22/6B, 2B, Plot No.6 to an extent of 2625 Sq.Ft, Plot No.16 to an extent of



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2625 Sq.Ft and Plot No.18 to an extent of 3187.5 Sq.Ft, Vilangudi Village, Madurai North Taluk, Madurai. He has purchased the said property by paying sale consideration and he is in possession and enjoyment of the property. The petitioner came to know that certain lands were grabbed by executing fraudulent sale deeds. A civil dispute in this regard is pending against the 3<sup>rd</sup> respondent before the competent civil Court of law. We are not inclined to make any observations in respect of the title dispute between the parties.

3.As far as the relief sought for in the present Writ Petition is concerned, a direction is sought for to remove the unauthorized construction. Since large scale violations are noticed and many Writ Petitions are filed before the High Court, wherein counter affidavits are not filed or filed belatedly by the Madurai Corporation, we have directed the Commissioner, Madurai Corporation to be present before this Court and explain the situation.

4.Pursuant to the same, Mr.L.Madhubalan, I.A.S., Commissioner of Madurai Corporation is present before this Court and has informed us that actions are taken then and there to prevent the unauthorized constructions in Madurai Corporation City limit area. The respective subordinate authorities are issuing



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notices, whenever unauthorized constructions are identified and stop notices are also issued to the owners concerned. Despite the stop notices, the owners are proceeding with the unauthorized construction by preferring appeal and keeping the same pending for an indefinite period. The Commissioner of Madurai Corporation though endorsed the unauthorized constructions in large scale in Madurai City Corporation, expressed his views by stating that appeals are filed and the same are kept pending for longer duration and therefore, actions are unable to be initiated immediately to demolish the unauthorized constructions.

5.The problem arises in view of the fact that the greedy men are allowed to complete the unauthorized constructions to a larger extent and demolition thereafter would be of difficult task for the Corporation. All such illegalities are to be dealt with by the Corporation at the initial stage by nipping the bud. Therefore, the authorities of Madurai Corporation as per the provisions of the Act are bound to conduct inspections periodically to ensure that the buildings are constructed in accordance with the building plan permissions and violations are dealt with then and there by issuing stop order proceedings or to prevent the owners from putting up further unauthorized constructions.



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6.In this context, beyond the actions under the Act, the Commissioner of Madurai Corporation has to issue necessary instructions to all the authorities to register criminal cases and to prosecute the offenders under the relevant provisions of law, including the provisions of Indian Penal Code, whenever a complaint or information has been received by Madurai Corporation. By registering criminal case against the offenders, the Corporation authorities are bound not only to stop the unauthorized constructions but also to demolish all such constructions by following the activities meticulously to uphold the Rule of Law.

7.It is made clear that mere pendency of the statutory appeal before the higher authority is not a bar for initiation of actions to demolish the unauthorized constructions, except in case of an interim order granted by the appellate authority. In other words, in the absence of interim order by the appellate authority, the competent authorities of Madurai Corporation are empowered to deal with the unauthorized constructions and demolish the same and register a criminal case and prosecute the offenders by following the procedures as contemplated.

8.In view of the fact that large number of Writ Petitions are filed to demolish the unauthorized constructions, the Courts are bound to consider the



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same in the interest of the citizen at large. The unauthorized constructions in the city are posing danger to the neighbours and causing nuisance and inconvenience for peaceful life. Right to Life since guaranteed under Article 21 of Constitution of India, the State and its authorities are bound to prevent unauthorized constructions for the purpose of providing peaceful life to the people. Therefore, any inaction would result in infringement of Right to Life guaranteed under the Constitution of India.

9.In view of the facts and circumstances, the Commissioner, Madurai Corporation is directed to initiate all appropriate actions to deal with the unauthorized constructions by conducting periodical inspections through subordinate authorities and issue suitable directions to them to register criminal cases, wherever unauthorized constructions are noticed under the relevant provisions of the statutes and IPC and initiate action to demolish the same by following the procedures as contemplated under the relevant statutes and rules in force and by affording opportunity to the alleged offenders.

10.In this regard, the Commissioner of Police, Madurai City is directed to co-ordinate with the Corporation authorities for effective prevention of



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unauthorized constructions in the City, so as to ensure the peaceful life to the citizen guaranteed under the Constitution of India.

11.In respect of the present Writ Petition, the respective learned counsels appearing for the respondents 3 to 6 made a submission that building plan permission has already been obtained from Vilangudi Panchayat. If so, after merger of the said Panchayat with Madurai Corporation, now, the Commissioner has to verify the authenticity and genuinity of the building plan approval granted by the Panchayat and if any unauthorized constructions are identified, then all appropriate actions under the Tamil Nadu Urban and Local Bodies Act, 1998 are to be initiated. In this regard, the respondents 3 to 6 are at liberty to submit relevant documents to the Commissioner of Madurai Corporation within a period of ten (10) days from the date of receipt of a copy of this order. On receipt of the same, the Commissioner of Madurai Corporation shall scrutinize the same and initiate all appropriate actions.

12.Mr.R.Baskaran, learned Additional Advocate General has brought to our notice that Section 134 of Tamil Nadu Urban and Local Bodies Act, 1998 stipulates that “where the construction, reconstruction or modification of any



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building is commenced or completed in contravention of the provisions of this Act or the rules made thereunder, the owner shall be liable, by way of penalty, to pay a sum which shall not exceed one lakh rupees and in the case of a continuing contravention, such further sum which shall not exceed fifty rupees per square feet every day during which the contravention continues.”

13.The said provision would provide power to the local body authorities to impose fine on identification of unlawful construction. However, registration of criminal case under the relevant provisions of IPC or other statutes is an addition to this provision, since Tamil Nadu Urban and Local Bodies Act, 1998 deals with violations and provide power to impose penalty. But criminal offences relating to such unauthorized constructions or preventing the authorities to enforce law are to be dealt with independently.

14.It is not as if offenders can pay fine amount under Section 134 of the Tamil Nadu Urban and Local Bodies Act, 1998 and proceed with the unauthorized construction. Therefore, mere payment of fine is not a ground to seek exoneration from the removal of unauthorized construction. The offences committed are to be dealt in accordance with the provisions of Tamil Nadu Urban and Local Bodies Act, 1998 and also under the relevant criminal law.



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15. With the above directions, this Writ Petition stands disposed of. No costs.

16. Registry is directed to communicate this order to the Commissioner of Municipal Administration and to the Director General of Police, Chennai, enabling them to communicate this order to all the Corporations, local bodies and to the respective Commissioner of Police for effective co-ordination with the authorities and by providing adequate protection to carry out their lawful duties.

**(S.M.S., J.) & (V.L.N., J.)**

**12.12.2023**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

*Yuva*

To

1. The District Collector,  
Madurai District, Madurai.

2. The Commissioner,  
Madurai Corporation,  
Madurai.

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Copy to:

- 1.The Commissioner of Police,  
Madurai City, Madurai.
- 2.The Director General of Police,  
Dr.Radhakrishnan Salai, Mylapore,  
Chennai-600 004.
- 3.The Commissioner of Municipal Administration,  
MRC Nagar, Raja Annamalai Puram,  
Chennai, Tamil Nadu 600028.



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**AND**

**V.LAKSHMINARAYANAN, J.**

*Yuva*

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