



W.P(MD)No.17416 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.17416 of 2021

S.Sudha

... Petitioner

-VS-

1.The District Collector,
Tirunelveli District.

2.The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli.

3.The Tahsildar,
Tirunelveli.

4.Mr.Hari Singh

5.Mr.Kishore Singh

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 1 to 3 to initiate appropriate action against unauthorized construction put up by the 4th and 5th respondents at No.57, Vadaku Ratha Veethi, Tirunelveli Junction, Tirunelveli.

For Petitioner

: Mr.G.A.Srijadu
for M/s.A.Sivasubramanian



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For Respondents 1 to 3 : Mr.S.P.Maharajan
Special Government Pleader

For Respondents 4 & 5 : Mr.H.Arumugam

WEB COPY

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

The petitioner has filed the Writ Petition for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to initiate appropriate action against the unauthorized construction put up by the 4th and 5th respondents at Door No.57, Vadaku Ratha Veethi, Tirunelveli Junction, Tirunelveli District.

2. The petitioner owns a commercial building and appears to have rented out several shops at Door No.58, North Raja Street, Tirunelveli Junction. It is the case of the petitioner that towards eastern portion of the petitioner's building, respondents 4 and 5 have constructed a building, which is without planning permission or without approval of the plan. The petitioner submitted a representation dated 25.01.2021, requesting the official respondents to take action against the respondents 4 and 5 for removal of unauthorized construction. To consider and dispose of the above representation, the Writ Petition is filed to dispose of the representation with a positive direction.



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3. This Court has considered the facts pointed out by the petitioner and the features shown in the photographs. The respondents 4 and 5 have raised huge constructions. Despite specific allegations being made against the private respondents, no record is produced to show that the property developed by the private respondents is after getting building plan approval from the competent authorities. Though the respondents 4 and 5 obtained planning permission from the Corporation, the allegations against them is that the construction is in violation of the building plan approval obtained by the fourth and fifth respondents.

4. The second respondent has already taken action against the respondents 4 and 5. The respondents 4 and 5 have not filed any application either for retention or regularization of the building, which is admittedly in violations of building rules. After the filing of this Writ Petition, the second respondent has issued a notice dated 01.11.2021 under Sections 56 and 57 of Town and Country Planning Act to lock and seal / demolish the construction in violation of building Rules.

5. The grievance of the respondents 4 and 5 is that they were not given proper opportunity before passing the order indicating the nature of violations they have made.



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6. Since an order has been passed by the second respondent against the respondents 4 and 5, by treating the communication of the second respondent dated 01.11.2021 as a show cause notice, it is open to the respondents 4 and 5 to seek regularization or retention of the building in accordance with the building regulations within a period of two weeks. On receipt of such application, the second respondent is directed to pass final orders on the said application and the representation of the petitioner dated 25.01.2021, after affording an opportunity of personal hearing to the petitioner as well as respondents 4 and 5 within a period of four weeks from the date of receipt of the said application.

7. The Writ Petition is disposed of with the above said directions. No costs.

[S.S.S.R, J.] [D.B.C., J.]
28.08.2023

Index : Yes / No
Neutral Citation : Yes / No
sj

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