



W.P.(MD)No.17606 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.17606 of 2023

and

W.M.P(MD)Nos.14697 and 14698 of 2023

Karthikeyan

... Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Housing and Urban Development Department,  
Fort St. George,  
Chennai.

2.The Commissioner,  
Thanjavur Corporation,  
Thanjavur.

3.The Assistant Director,  
District Town and Country Planning,  
Office No.2, Ganapathi Nagar 2<sup>nd</sup> Street,  
Medical College Road,  
Thanjavur.

4.The Member Secretary,  
District Town and Country Planning,  
Thanjavur,  
Thanjavur District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent vide his proceedings in Ka.V.No.360/2016/F2 dated 18.07.2023 and quash the same as illegal and consequentially to forbear the respondents from taking any coercive action to lock and seal of the petitioner's premises till the consideration of the petitioner's revised plan dated 15.06.2023.

For Petitioner :Mr.M.Ajmal Khan,  
Senior Counsel for  
M/s.Ajmal Associates

For R-1, R-3 & R-4 :Mr.D.Sachi Kumar,  
Additional Government Pleader

For R-2 :Mr.N.Dilip Kumar,  
Standing Counsel

### **ORDER**

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

Heard Mr.M.Ajmal Khan, learned Senior Counsel for M/s.Ajmal Associates, learned counsel for the petitioner, Mr.D.Sachi Kumar, learned Additional Government Pleader for respondents 1, 3 & 4 and Mr.N.Dilip Kumar, learned Standing Counsel for the second respondent.



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2. This writ petition has been filed by the petitioner seeking for issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings of the second respondent, dated 18.07.2023 and to direct the respondents from taking any coercive action to lock and seal the premises till consideration of the petitioner's revised building plan, dated 15.06.2023, which is pending before the fourth respondent.

3. Brief facts which are necessary for the disposal of this writ petition read as follows:

The petitioner had applied for building plan approval for construction of a commercial complex in the property belongs to him. Stating that the construction is not in agreement with the approved building plan, the local body appears to have issued notice to the petitioner at different stages. However, construction was going on despite issuance of notice by the local body to stop the work. Ultimately, by the impugned order, the second respondent has taken action under Sections 56(2A) of the Tamil Nadu Town and Country Planning Act, 1971, to de-occupy the premises for the purpose of sealing the same.



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4. The learned Senior Counsel appearing for the petitioner submitted

that the impugned order pointed out deviations only regarding setbacks on the front and rear side of the building and that, there is no serious violation of building regulations. He further submitted that the petitioner has submitted a revised building plan and that, the said application is pending before the fourth respondent in this writ petition. Therefore, till such time, the revised building plan submitted by the petitioner is duly considered by the fourth respondent, the respondents may be directed not to take any coercive action.

5. However, the learned Standing Counsel appearing for the local body states that there is not only setbacks violations, but also other serious major violations which had been pointed out to the petitioner through the earlier communications. The learned counsel further submitted that the petitioner has constructed a basement for providing car parking area even though car parking area was originally in the stilt floor. However, the petitioner has converted the parking area to shops.

6. Further, the learned Standing Counsel appearing for the local body submits that the conduct of the petitioner would show as how he never cared to comply with the directions of the local body at every stage of construction.



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Despite the fact that the petitioner has no approved building plan for the construction which he had put up in his own patta land, he has completed the construction in the absence of statutory permission. The learned counsel also states that the local body is entitled to levy penalty for violation of the earlier order passed before the impugned order.

7. Having regard to the facts and circumstances noticed above, this Court is inclined to dispose of the writ petition in the following lines:

(i) The impugned order shall be kept in abeyance till the fourth respondent considers the revised building plan submitted by the petitioner for approval. The fourth respondent can consider approval of the revised plan/regularization of building subject to the conditions in accordance with the relevant Rules which the petitioner shall abide and comply. Depending upon the outcome of the application for approval of revised building plan, the second respondent is directed to initiate further action.

(ii). For the deviations committed by the petitioner, the petitioner shall pay a sum of Rs.10,00,000/-(Rupees Ten Lakhs Only) within a period of two weeks from the date of receipt of a copy of this order, to the Commissioner,



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Thanjavur Corporation, Thanjavur, which shall be kept by the Corporation as an amount equivalent to fine which are to be paid by the petitioner for proceeding with the construction despite notice to stop the construction.

(iii). The petitioner is entitled to induct tenants to the building, however, subject to final outcome in this matter. The petitioner is also directed to inform every tenant about this order so that they will not claim independent right after getting into possession as a tenant when order is passed by the fourth respondent.

With the above directions, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

**[S.S.S.R., J.]      [D.B.C., J.]**  
**20.07.2023**

Index : Yes / No  
NCC : Yes/No

pm



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WEB COPY

To:

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State of Tamil Nadu,  
Housing and Urban Development Department,  
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Chennai.
2. The Assistant Director,  
District Town and Country Planning,  
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**S.S.SUNDAR, J.**

and

**D.BHARATHA CHAKRAVARTHY, J.**

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**20.07.2023**