



W.P.(MD)No.17778 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2023

CORAM

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

W.P.(MD)No.17778 of 2023
and
W.M.P(MD)No.14844 of 2023

M.Rajagopal

: Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner,
North Zone-II,
Madurai Corporation,
Madurai.

3.R.Valli

: Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned provisional order through proceedings in Na.Ka.No.Ma2003/1219/L1/014076/22 dated 10.07.2023



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and to quash the same as illegal and further directing the respondents 1 and 2 to remove the lock and seal which was put up by the respondents corporation on 20.07.2023 under the provisions of Tamil Nadu Town and Country Planning Act, 1971 with regard to construction put up in S.No. 82/1, LIG Colony, Anna Nagar, Madurai North Taluk, Madurai.

For Petitioner : Mr.B.Muneeswaran
For R1 & R2 : Ms.S.Devesena
Standing Counsel

ORDER

(order of the Court was made by S.S.Sundar, J.)

This Writ Petition is filed challenging the proceedings initiated to lock and seal the premises under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971.

2. From the notice itself, it is seen that the petitioner has put up a residential house measuring $26 \frac{1}{2} \times 10 \frac{3}{4}$ in ground floor and the first floor measuring $13 \frac{3}{4} \times 10 \frac{3}{4}$. Since no planning permission was obtained, the respondents Corporation stated to have initiated action after issuing notice to stop construction earlier. Even in the impugned order,



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dated 10.07.2023, there is no reference to any previous notice. However the provisions of Madurai City Municipal Corporation Act, 1971 was referred.

3. The learned counsel for the respondents Corporation cites a suit which is pending before the District Court, Madurai in P.O.P.No.1 of 2015. It appears that the said suit is filed by the third party against one R.Baskaran and several others including the writ petitioner, who is the third defendant in the suit. The said suit is for declaration of title and recovery of possession. The suit property in the said proceedings is an extent of S.No.82/1, LIG Colony, Anna Nagar, Madurai North Taluk, Madurai. She further submitted that the property also is a subject matter of litigation and the petitioner has not obtained permission even for the construction, which is made already.

4. The petitioner has right of appeal under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971 as against the order passed under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner is directed to submit a plan or revised



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plan as the case may be seeking approval within a period of two weeks from the date of receipt of a copy of this order. The respondents 1 and 2 shall independently consider. In the meanwhile, as against the impugned order, the petitioner is advised to file an appeal under Section 80(A) of Town and Country Planning Act, 1971, before the Government. Till such time, the application for revised plan approval is considered by the first and second respondents in accordance with law after giving opportunity to the petitioner, the respondents 1 and 2 shall not take any coercive action and the appeal will be decided after the planning permission is considered in accordance with law. It is made clear that the planning permission shall not be refused merely because there is objection by any third party and the petitioner's plan should be considered in accordance with the building rules and regulations and the respondents 1 and 2 shall positively consider the same. However, it is open to the third party, the plaintiff in the suit to seek appropriate relief in the civil Court and this order will not stand in the way of civil Court in independently considering any interim application that may be filed by the plaintiff therein.



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5. The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

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

26.07.2023

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

To

- 1.The Commissioner,
Madurai Corporation,
Madurai.
- 2.The Assistant Commissioner,
North Zone-II,
Madurai Corporation,
Madurai.



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S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

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