



W.P(MD)No.10772 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10772 of 2015
and
M.P.(MD)No.1 of 2015

V.Muthukrishnan

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Anna Maligai,
Alagarkoil Road,
Madurai - 2.

2.The Member Secretary,
Town Planning Authority,
Madurai Corporation,
Anna Maligai,
Alagarkoil Road,
Madurai – 2.

... 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 perusing to the Impugned notice dated 02.06.2015



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issued by the 1st Respondent in his Proceedings Na.Ka.No.Mathi/1/Ma4/34093/2014 and quash the same and forbearing the 1st respondent and his officials from demolishing the building.

For Petitioner : Mr.S.Nates Rajaa

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader for R2.
Mr.K.Sivabalan,
Standing Counsel for R1.

ORDER

Heard the learned counsel on either side.

2.What is under challenge is the demolition notice issued by the corporation.

3.It is seen that the petitioner applied to the corporation and obtained building plan approval for putting up a residential construction. However, what was put up was a commercial complex. It is only the second respondent who could have granted approval for putting up such a construction. However, without obtaining any such approval from the



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second respondent, the petitioner had made the construction and that necessitated the issuance of the impugned notice.

4.The stand in the affidavit is that the petitioner had already applied to the second respondent for regularization. It is also contended that the first respondent lacks the jurisdiction to issue the impugned notice.

5.The second contention is without any merit. When an unauthorized construction has been put up within the corporation limits, the Commissioner is certainly authorized to cause the same to be removed or demolished. Therefore, the challenge mounted on the ground of jurisdiction is rejected.

6.The other contention does have force. Whenever an application for regularization has been submitted to the competent authority, certainly till the same is disposed of, demolition cannot be carried out. Otherwise, the application for regularization itself will become infructuous.



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7. However, as rightly pointed by the learned standing counsel for the corporation, the petitioner has not enclosed any such copy of the appeal memorandum. A copy of the receipt of revised plan has been enclosed. That is insufficient. The writ petition is disposed of in the following terms:-

(i) The petitioner is permitted to submit a proper appeal / application for regularization before the competent authority.

(ii) If such an application is filed within a period of three weeks from the date of receipt a copy of this order, the same will be entertained without reference to limitation and disposed of on merits and in accordance with law within a period three months thereafter.

(iii) I decline to interfere with the impugned order. The impugned order issued by the first respondent will abide by the outcome of the order to be passed by the competent authority under the Town and Country Planning Act or the second respondent, as the case may be.



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(iv) If the petitioner fails to submit an application / appeal within the time limit stipulated above, without further notice or reference to this Court, the impugned order can be enforced. No costs. Consequently, connected miscellaneous petition is closed

04.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Member Secretary,
Town Planning Authority,
Madurai Corporation,
Anna Maligai,
Alagarkoil Road,
Madurai – 2.



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G.R.SWAMINATHAN, J.

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