



W.P.(MD) No.13765 of 2015.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.01.2023**

CORAM

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.13765 of 2015
and
M.P.(MD) No.1 of 2015

P.Narayanasamy (Died)

1.N.Chandhirika

2.N.Krishna Veni

3.N.Menaka

*(Petitioners 1 to 3 have been
impleaded vide order dated 02.01.2023)*

... Petitioners

/vs./

1.The Commissioner,
Madurai Corporation,
Annamaligai,
Madurai.

2.The Executive Engineer (Planning),
Madurai Corporation,
Annamaligai, Madurai.



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3.Uthandaraman

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order made in Ref.no.Mathi 1/014463/14 dated 11.06.2015 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to remove the encroachment made by the 3rd respondent in Sector, IV, Madurai North neighbourhood scheme being part of Survey No.22, Thathaneri Village, Madurai north Taluk, Madurai.

For Petitioners : Mr.P.R.Prithiviraj for
Mr.D.Sadiq Raja

For R1 & R2 : Mr.G.Siva Raja
Government Advocate

For R3 : No appearance

ORDER

The writ petition is seeking for a Certiorarified Mandamus to call for the records of the first respondent dated 11.06.2015 and consequently direct the first respondent to remove the encroachment made by the third respondent in Sector IV, Madurai North, neighbourhood scheme in S.No.22, Thathaneri Village, Madurai North Taluk, Madurai.



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2.A reading of the impugned order would show that the first respondent had received a complaint from the deceased petitioner, wherein it has been stated that the third respondent herein had encroached upon the open space area and common space and had constructed staircase apart from other constructions. The said complaint has been rejected by the first respondent claiming that the said space has not been handed over to the Madurai Corporation and only the roads have been handed over and are being maintained by the first respondent Corporation. Even in the impugned order, it is admitted that the area has been developed by the Tamil Nadu Housing Board after appropriate planning permission. When that be so, it is the duty of the first respondent to also check the unauthorized development/construction in the land.

3.In the present case, the third respondent had admittedly made some constructions in the place not belonging to him. That too without approval of the planning authorities. Hence, the first respondent is duty bound to take appropriate action under the relevant provisions, namely the Tamil Nadu Town and Country Planning Act r/w the Madurai City Municipal Corporation Act. Hence, the impugned order of the first respondent made in Ref.No.Mathi/014463/14 dated



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11.06.2015 is set aside and the first respondent is directed to consider the compliant of the deceased petitioner and take appropriate action against the third respondent after affording an opportunity of hearing both the petitioners and the third respondent, within a period of eight weeks from the date of receipt of a copy of this order.

4.In fine, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

02.01.2023

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To

1.The Commissioner,
Madurai Corporation,
Annamaligai,
Madurai.

2.The Executive Engineer (Planning),
Madurai Corporation,
Annamaligai, Madurai.

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K.KUMARESH BABU, J.

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