



W.P.(MD).No.19718 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.10.2023

CORAM

**THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD).No.19718 of 2023
and
W.M.P.(MD).Nos.16275 and 16276 of 2023

R.Raja

.. Petitioner

Vs.

1.The Deputy Director of Town and Country Planning,
O/o. The Director of Town and Country Planning,
2nd, 3rd, 4th floor, C& E Market Road,
Koyambedu,
Chennai – 600 107.

2.The Madurai City Municipal Corporation,
Represented by its Commissioner,
Zonal – II, (North),
Anna Maligai,
Madurai District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.Ma2E1/0016607/2022 dated 25.07.2023 on the file of the respondent no.2 and quash the same as illegal and consequently directing the respondents 1 to 2 to dispose the Retention



W.P.(MD).No.19718 of 2023

application and the Revised Plan preferred by the petitioner under Section 56(3) of the Town and Country Planning Act 1971 dated 07.08.2023 pertaining to the petitioner's properties in Survey No.187/5, Vilangudi Village, Madurai North Taluk, Madurai District in an extent of 418 Sqft within the time frame stipulated by this Court.

For Petitioner : Mr.S.Rajasekar
For R-1 : Mr.T.Amjad Khan
Government Advocate
For R-2 : Mr.S.Vinayak

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The proceedings of the Commissioner, Madurai Corporation dated 25.07.2023, is sought to be quashed in the present Writ Petition.

2. Section 297 of Madurai Corporation Act, 1971 was invoked for issuing notice and the Commissioner passed an order stating that the petitioner has put up illegal construction in violation of the building plan approval granted by the competent authority and therefore, the portion of the building under construction without permission is to be sealed.



W.P.(MD).No.19718 of 2023

3. The learned counsel for the petitioner made a submission that an application was submitted to regularise the alleged illegal constructions and without considering the said application, the second respondent has passed the impugned order. More so, no show cause notice was issued to the writ petitioner regarding the alleged illegal construction and thus, the order impugned is to be set aside.

4. The learned Standing Counsel appearing on behalf of the Corporation made a submission that the petitioner was very much aware about the illegality and the violations committed by him and it was intimated to him and accordingly, the order was passed by invoking the provisions of the Madurai Corporation Act. Thus, there is no infirmity in the impugned order.

5. The grievance of the writ petitioner is that no show cause notice was issued to him and thus, the impugned order is in violation of the principles of natural justice. Secondly, the petitioner has submitted an application to regularize the illegal constructions and the same was not considered properly.



W.P.(MD).No.19718 of 2023

6. This Court is of the considered opinion that regularizing the illegal constructions will defeat the very purpose and object of the scheme of the Town and Country Planning Act. The said Act contemplates grant of building plan approval by prescribing certain specifications. If violations are committed and such violations are regularized, then we are afraid that the very purpose and object of the scheme of the Town and Country Planning Act is not only diluted, but the other Environmental Laws are also violated. Therefore, the question of considering the regularization of illegal constructions would not arise at all.

7. Considering regularization of illegal constructions by the Government would result in anomalous situation and it would pave way for corrupt activities. When the people are made to believe that illegal constructions will be regularized, then the other person putting up constructions will be tempted to violate the building plan approval and such a situation would cause infringement of rights of the people at large, more so, it will result in unconstitutionality. The Authorities competent are approving building plans by verifying the specifications prescribed under the Act and Rules. Therefore, entertaining the applications for



W.P.(MD).No.19718 of 2023

regularization of illegal constructions is nothing but violation of the very scheme of the building plan approval and the Town and Country Planning Act. In all circumstances, building plan approval is to be scrupulously followed and in the event of any violation thereof, the illegal constructions are to be demolished. The setback areas and open space reservation (OSR) areas and other specifications are contemplated in the public interest and to protect the life and safety of the neighbours and the other people passing through the street. In the event of regularizing the illegal constructions, it would pose danger to the neighbours and the passerby, since in the event of demolition or any other calamities, there is a possibility of endangering their life. Thus, the object and purpose of the Town and Country Planning Act and the Building Rules, at no circumstances, be defeated. Safety and security of all the residents of the locality or the people running commercial establishments are of paramount importance. Thus, the applications to regularize the illegal constructions are not entertainable and if entertained, it would result in unconstitutionality and more so, would infringe the rights of the citizens of our great Nation.



W.P.(MD).No.19718 of 2023

8. In respect of the other ground raised by the petitioner that no opportunity was granted to him to submit his explanations, we are inclined to consider the same.

9. Accordingly, the petitioner is at liberty to submit his explanations, if any, within a period of one week from today. The respondents, in the event of receiving any such explanations, shall consider the same and pass appropriate orders, within a period of fifteen days thereafter and after passing the order, the respondents shall proceed with all further actions contemplated under the provisions of the Act and Rules. If at all any illegal constructions are identified, then such portions are liable to be demolished.

10. With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
03.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



W.P.(MD).No.19718 of 2023

To

1. The Deputy Director of Town and Country Planning,
O/o. The Director of Town and Country Planning,
2nd, 3rd, 4th floor, C& E Market Road,
Koyambedu,
Chennai – 600 107.

2. The Commissioner,
The Madurai City Municipal Corporation,
Zonal – II, (North),
Anna Maligai,
Madurai District.



WEB COPY



W.P.(MD).No.19718 of 2023

S.M.SUBRAMANIAM,J.
and
V.LAKSHMINARAYANAN,J.

Lm

W.P.(MD).No.19718 of 2023

03.10.2023