



W.P(MD)No.23855 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

CORAM:

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

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K.P.Chandrasekaran

... Petitioner

-VS-

1. The Director,
Town and Country Planning,
No. 807, Anna Salai,
Chennai-600 002.

2. The Commissioner,
Palani Municipality,
Palani, Dindigul District.

3. The Member Secretary / Commissioner,
Town Planning Authority,
Palani Municipality,
Palani, Dindigul District.

4 Jeyachitra

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to demolish the unauthorized structure built by the 4th respondent at Door No.B-12(1), Periyar Salai, Shanmugapuram, Palani, which is under lock and seal.



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For Petitioner : party in person
For R1 & R2 : Mr.M.Lingadurai
Special Government Pleader
For R3 : Mr.L.P.Mauarya
For R4 : Mr.A.Prasanna Rajadurai

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition appears to be a lis between the petitioner and the 4th respondent. As a matter of fact, the property appears to be the property of the family in which the petitioner and the 4th respondent are members. Even the 4th respondent does not dispute the right of the petitioner as co-owner. The petitioner has also filed a suit for partition and the suit is still pending.

2. The grievance of the petitioner is that the 4th respondent has put up a construction without obtaining planning permission and that the building put up by the 4th respondent should be demolished as the construction is unauthorised.

3. The learned counsel for the 4th respondent submitted that



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the building plan submitted by the 4th respondent for approval was rejected only on the ground that the property is not the exclusive property of the 4th respondent and that the planning permission without the consent of the petitioner and other co-sharers cannot be considered.

4. Therefore, this Court *prima facie* finds that depending upon the outcome of the partition suit, any one of the parties either the petitioner or the 4th respondent may get the property. The petitioner having filed the suit for partition, is entitled to seek appropriate interim order even before the civil court to protect his right as a co-owner or to preserve the subject matter of the suit for partition. The fact that the official respondents have taken appropriate action and that they have put the building under lock and seal is recorded.

5. This Court is not inclined to pass any further order, as the building can be saved once the dispute between the petitioner and the 4th respondent is resolved in the pending civil suit. Therefore, the writ petition is closed by recording the fact that the building is



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already under lock and seal and by reserving liberty to the petitioner
to move the civil court for appropriate relief. No costs.

[S.S.S.R, J.] [D.B.C., J.]
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Index : Yes / No
Neutral Citation : Yes / No
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