



WEB COPY



W.P.(MD)No.26130 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.26130 of 2023

and

W.M.P(MD) Nos.22494 and 22495 of 2023

S.Vijayakumar

... Petitioner

Vs.

1.The District Collector,
Pudukottai.

2.The Executive Officer,
Karambakudi Town Panchayat,
Pudukottai District.

3.The Deputy Director Town and Country Planning Department,
No.430, Gandhi Street,
Pudukottai District.

4.V.Marikannu

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the notice dated 20.10.2023 in Na.Ka.No.110/2015 of the 3rd respondent herein, quash the



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same and consequently direct the Respondents 1 to 3 herein to de-seal the petitioner's building at Survey Nos.623/2, 3A, 3B, 625/1 and 626/1, 2 in Big Bazaar Street, Karambakudi Taluk, Pudukottai District.

For Petitioner : Mr.A.L.Gandhimathi
Senior Counsel for Mr.C.Mahadevan

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 to R3

ORDER

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

The notification issued under Section 135(6) of Tamil Nadu Urban Local Bodies Act, 1998, dated 20.10.2023, is sought to be quashed in the present Writ Proceedings.

2. The petitioner claims to be the absolute owner of the property in S.Nos.623/2 and 623/3 in Big Bazaar Street, Karambakudi. He has constructed a Kalyana Madapam (Marriage Hall) after getting approval on 04.10.2005 from the Executive Officer, Karambakudi Special Panchayat. Admittedly, the petitioner has not obtained necessary approval from the competent authority under the Town and Country Planning Act, 1971.



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3. Complaints were made regarding the unauthorized constructions and based on the complaints, action was initiated against the unauthorized construction put up by the petitioner and the complainant filed W.P.(MD) No.22597 of 2015, seeking a direction to initiate necessary action to stop functioning of S.V.Abi Thirumanamandapam, situated at Big Bazaar Street, Karambakudi, Pudukkottai District. This Court, by order dated 05.02.2020, considered the issues and held that the marriage hall constructed by the petitioner is an unauthorized construction and no approval has been obtained under the provisions of the Tamil Nadu Town and Country Planning Act, 1971. The said order reads as under:-

“6.In these circumstances, the planning authorities cannot pass any final order in the application submitted by the ninth respondent under Section 113(c) of the Tamil Nadu Town and Country Planning Act, 1971. Sofar as the initiation of the action against the illegal construction is concerned, the fifth respondent had already locked and sealed the building and the ninth respondent is also not using the said building for any purpose till today. However, the fifth respondent shall proceed further and initiate appropriate action as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971, in respect of the building in dispute. It is needless to say that in the event of any further action is being taken by the fifth respondent, it is open to the ninth respondent to defend the same raising all defences available to him. It is also needless to say that the ninth respondent is at liberty to work out his



remedy as against the action to be taken by the fifth respondent in accordance with law.”

4. Authorities commenced action and subsequently, the very same complainant Mr.V.Marikannu filed another Writ Petition in W.P.(MD) No.11039 of 2021. Another Division of this Court passed an order on 24.01.2013 as under:-

“This Court directs the fourth respondent to furnish the details of the revision application pending before the third respondent within a period of four weeks from the date of receipt of a copy of this order. Based on the particulars furnished by the fourth respondent, the third respondent is directed to take necessary action for the removal of encroachment. If no particulars are furnished, the third respondent is directed to take necessary action for removal of the unauthorized construction made by the fourth respondent, by following the due process of law, immediately, without any further delay. Based on the final decision of the third respondent, the second respondent is directed to take further action, in the manner known to law.”

5. Pursuant to the orders of two Division Benches, Contempt Proceedings were initiated to punish the official respondents for their wilful disobedience of the order for not executing the same in Contempt Petition (MD)



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No.1888 of 2023. Thereafter, the order impugned in the present Writ Petition was issued, directing the petitioner to demolish the unauthorized constructions of his own, failing which the unauthorized constructions will be removed by the respondents at the costs of the petitioner.

6. Learned Senior Counsel appearing on behalf the petitioner mainly contended that representations are submitted to the competent authorities under the Town and Country Planning Act, 1971, for obtaining necessary approval. The petitioner undertakes that he will not use the marriage hall for any purpose till such time necessary approval/regularization has been obtained.

7. Examining the provisions of the Act, we find that there is no provision for conversion or regularization of unauthorized constructions already put up by the petitioner. In the event of granting regularization the very purpose of Town and Country Planning Act, 1971 will be defeated and the Courts are not expected to encourage such illegal acts, which would result in converting the urban areas as concrete jungle. Constitutional Courts have time and again emphasized that environmental aspects and the scheme under the Town and Country Planning Act are to be followed scrupulously in the interest of public at large and any such



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unauthorized constructions would pose danger to the public and more so would cause inconvenience to the neighbours and other persons.

8. Learned Government Advocate appearing on behalf of the respondents 1 to 3 brought to our notice that the representation / application submitted by the petitioner to the authority under the Town and Country Planning Act was returned as not entertainable on 06.10.2023.

9. That being the factum, any lenient view or misplaced sympathy in such matters would infringe the larger public interest and more so, the Courts cannot encourage the practise of committing violations and unauthorized constructions and more so the authorities are duty bound to initiate all appropriate actions to ensure that the unauthorized constructions are demolished then and there and the provisions of the Act are implemented scrupulously.

10. Despite the orders of three Division Benches, the petitioner could able to prolong the actions and therefore, no further time needs to be granted as the petitioner is attempting to protract the issues by filing petitions or by sending representations to the authorities. Thus, the respondents are directed to demolish



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the unauthorized constructions based on the impugned order forthwith and report before this Court.

11. The Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

12. The Registry is directed to post the matter for reporting compliance on 09.11.2023.

(S.M.S., J.) & (V.L.N., J.)
31.10.2023

NCC : Yes / No

Index : Yes / No

SJ

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