



W.P.(MD) No.29441 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29441 of 2023

and

W.M.P.(MD) No.25401 of 2023

M.Rajagopal

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by its Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai.
- 2.The Commissioner,
Madurai Corporation,
Madurai.
- 3.The Assistant Commissioner,
North Zone-II,
Madurai Corporation,
Madurai.
- 4.The Member Secretary,
Local Planning Authority,



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Madurai Corporation,
Madurai.

5.R.Valli

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents 2 and 4 to revise the plan for the additional constructions made in the house property of the petitioner situated at Door No.46, LIG Colony, Anna Nagar, Madurai by considering the petitioner's Revised Plan Application dated 04.08.2023 within the time as fixed by this Court.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.M.Prakash
Additional Government Pleader
for R.1

Mr.K.Manisekaran for R.2 & R.3

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the first respondent and the learned Standing Counsel appearing for the respondents 2 to 4. Considering the nature of order to be passed, issuance of notice to the fifth respondent is dispensed with.

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2.The petitioner had put up construction and the same was locked and sealed. Questioning the same, the petitioner filed an appeal before the first respondent and it is still pending. He also filed W.P(MD)No.17778 of 2023. The writ petition was disposed of on 26.07.2023 in the following terms:

“4. The petitioner has right of appeal under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971 as against the order passed under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner is directed to submit a plan or revised plan as the case may be seeking approval within a period of two weeks from the date of receipt of a copy of this order. The respondents 1 and 2 shall independently consider. In the meanwhile, as against the impugned order, the petitioner is advised to file an appeal under Section 80(A) of Town and Country Planning Act, 1971, before the Government. Till such time, the application for revised plan approval is considered by the first and second respondents in accordance with law after giving opportunity to the petitioner, the respondents 1 and



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2 shall not take any coercive action and the appeal will be decided after the planning permission is considered in accordance with law. It is made clear that the planning permission shall not be refused merely because there is objection by any third party and the petitioner's plan should be considered in accordance with the building rules and regulations and the respondents 1 and 2 shall positively consider the same. However, it is open to the third party, the plaintiff in the suit to seek appropriate relief in the civil Court and this order will not stand in the way of civil Court in independently considering any interim application that may be filed by the plaintiff therein.”

Availing the said liberty, the petitioner is said to have filed an application for revised plan approval. It is pending before the fourth respondent. The fourth respondent is directed to consider and dispose it of on merits and in accordance with law within a period of eight weeks. I make it clear that I have not gone into the merits of the matter. The fourth respondent will issue notice to the fifth respondent before passing final order.



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3.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.12.2023

NCC :No
Internet :Yes
Index :No
MGA

To

The Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai.



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G.R.SWAMINATHAN, J.

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