



W.P.No.4003 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.4003 of 2024

Saravanan
S/o Subramani

.. Petitioner

v.

1. The District Collector
Dharmapuri District, Dharmapuri
2. The Assistant Director of Panchayats
Dharmapuri District, Dharmapuri
3. The Assistant Director
Town and Country Planning Department
Dharmapuri
4. The Executive Officer
Palacode Selection Grade Town Panchayat
Dharmapuri District
5. P.Dharaman .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus, to call for the



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records relating to the impugned order of approval dated 16.08.2023 made in Moo.Mu.No.455/2023/A3 issued by the 4th respondent and to quash the same and consequently direct 4th respondent to pull down the unauthorised construction made by the 5th respondent forthwith in respect of the land comprised in Survey No.943/49 and 47 situated at Saanar Street, Ward No.7, Palacode Town and Taluk, Dharmapuri District.

For Petitioner :: Mr.C.Prabakaran

For Respondents :: Mr.R.Vigneswaran
Government Advocate for R1 to R3
Mr.R.P.Murugan Raja
Government Advocate for R4
Mr.S.Thiruvengadam for R5

ORDER

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

This is a vexatious litigation probably motivated for extraneous reasons. The petitioner has now filed this writ petition for issuance of a writ of certiorarified mandamus challenging the impugned order of approval dated 16.08.2023 issued by the fourth respondent and to direct the fourth respondent to pull down the unauthorised construction made by the fifth respondent forthwith.

2. The petitioner is a permanent resident having his residential



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dwelling at Door No.12, Murugan Temple Street, Palacode Taluk. The fifth respondent purchased the land in Survey Nos.943/49 & 47 under various sale deeds, which is located opposite to the petitioner's house and shops. It is the case of petitioner that after purchasing the land, the fifth respondent is taking steps to put up construction of a commercial building in the land without prior approval for the basement floor. It is alleged that the proposed construction would affect the free ingress and egress of the road to the petitioner's shops and house, which is located just opposite to the construction proposed by the fifth respondent.

3. The fact that the fifth respondent has submitted an application for planning permission and approval is not in issue. The learned counsel appearing for the fifth respondent submits that the fifth respondent will put up construction only in accordance with the approved plan.

4. Now the learned Government Advocate appearing for the official respondents states that building plan approval has been granted to the fifth respondent.



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5. In the present case, the photographs produced by the learned counsel for fifth respondent would show that the fifth respondent has only commenced construction by raising columns in accordance with the building plan approval dated 16.08.2023 issued by the fourth respondent. In view of the facts admitted as recorded above, this Court finds that the petitioner has come to Court with ulterior motive and without a cause to file this writ petition. Despite the photographs shown by the learned counsel for fifth respondent, the learned counsel for petitioner, quite contrary to the impression gained from the photographs, submits that the fifth respondent has constructed the building with basement, which is not available as per the approved plan. The construction as it exists on ground would show the columns and the basement above ground and hence the submission of the petitioner's counsel is again false.

6. It is reiterated by the learned counsel for fifth respondent that the petitioner has not put up construction in accordance with the approved plan. Therefore, this writ petition is dismissed with a direction to the official respondents to inspect the property of the petitioner, after issuing due notice



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to him, and to see that the construction put up by the petitioner is in accordance with the building regulations as well the building plan approval obtained by the petitioner. In case the petitioner's building is found to be in violation of the building regulations or contrary to the building plan approval, the official respondents shall take appropriate steps in accordance with law. Consequently, W.M.P.Nos.4318 & 4319 of 2024 are also dismissed. No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

01.07.2024

ss

To

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AND

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SS

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