



W.P(MD)No.4193 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.4193 of 2024

1.T.Krishnan
2.K.Kasthuri
Represented by their Power Agent,
B.Sundara Sakthivel,
Managing Partner for M/s.Southern
Properties & Developers,
Door No.6/106, Veramamunivar Street,
Aathikulam,
Maudrai – 625 007.

... Petitioners

Vs

1.The Commissioner,
Corporation of Madurai,
Anna Maligai,
Madurai – 625 002.

2.The City Town Planning Officer,
Office of the Commissioner,
Corporation of Madurai,
Anna Maligai,
Madurai – 625 002.

3.The Local Planning Authority,
Madurai.

... Respondents

(R – 3 is *suo motu* impleaded vide order
dated 08.07.2024 in W.P(MD)No.4193 of 2024)

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records from the first respondent in proceedings in E4/002481/2023



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dated 19.02.2024 and quash the same and consequently to direct the respondents to issue completion certificate to the petitioners property situated in R.S.No.432/3, Plot No.D151, Door No.21, Balaji Street, Azhagappan Nagar, Madakulam Village Limit, Madurai – 625 003 within the period stipulated by this Court.

For Petitioners : Mr.N.Sathish Babu

For R – 1 : Mr.K.K.Kannan
Standing Counsel

ORDER

This Writ Petition has been filed by the petitioners challenging the order passed by the first respondent dated 19.02.2024, thereby rejecting the request made by the petitioners seeking a completion certificate for the construction made by the petitioners as per the planning and building permission.

2.The petitioners are being the developers in the name and style of M/s.Southern Properties and Developers had entered into a joint venture agreement dated 27.07.2022 with one late.Puspha and agreed to construct an apartment in her property. Thereafter, the petitioners applied for building plan approval before the first respondent and by proceedings dated 23.11.2021 granted



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building plan approval. Accordingly, the petitioners made all payments and completed the entire construction of the apartment building. As per the approval, the petitioners were permitted to construct 7007.67 square feet consisting of stilt floor area + 3 floors. 3 flats each constitute two bedrooms, a hall and a kitchen. In fact, all the apartments were sold out and the purchasers are in occupation of their respective plots. In order to obtain a permanent electricity connection and other amenities, the completion certificate should be produced before the authorities concerned. Therefore, the petitioners applied for the completion certificate. However, the first respondent refused to issue a completion certificate on the ground that the building permission was wrongly given and as per the Government Orders, the subject property is eligible to construct only 8 flats. Instead, 9 flats were constructed and the person, who granted planning permission to construct 9 flats, is now facing disciplinary proceedings.

3. Admittedly, the petitioners have nothing to do with the planning permission issued by the first respondent. On the application submitted by the petitioners, the planning and building permission was duly approved to construct a stilt floor + 3 floors.



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Each floor consists of 3 flats. There are totally 9 kitchens and accordingly, the petitioners had constructed 9 flats. After completion of the entire construction, the first respondent that too when the petitioners applied for issuance of completion certificate stated that the planning permission itself was wrongly given and as per the Government Orders, the subject property could be developed only with 8 flats. It is not the case of the first respondent that on misrepresentation or any fraud committed by the petitioners on which planning and building approval was granted in favour of the petitioners. The only mistake committed by the officer of the first respondent and the petitioners have nothing to do with the planning and building approval granted by the first respondent. Therefore, whatever the construction made by the petitioners is in accordance with the planning and building permission. Further, it is also not the case of the first respondent that the petitioners violated the planning and building approval and put up additional construction. However, if the Rule does not permit to put up 9 flats in the subject property, the additional plot can be regularized in the manner known to law. In view of the above, the order passed by the first respondent dated 19.02.2024 cannot be sustained and the same is liable to be quashed.



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4. Accordingly, the order passed by the first respondent dated 19.02.2024 is quashed. The first respondent is directed to issue a completion certificate for the construction put up by the petitioners, if otherwise the building is in order, on condition that the petitioners shall regularize the 9th flat by paying necessary fees, within a period of twelve weeks from the date of receipt of the completion certificate. If the petitioners failed to regularize the 9th flat put up by the petitioners, the respondents are at liberty to take appropriate action as against the petitioners, in the manner known to law.

5. With the above directions, this Writ Petition is allowed.

There shall be no order as to costs.

29.11.2024
(1/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



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To

- 1.The Commissioner,
Corporation of Madurai,
Anna Maligai,
Madurai – 625 002.
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Office of the Commissioner,
Corporation of Madurai,
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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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29.11.2024
(1/2)