



W.P(MD)No.4270 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.4270 of 2020

R.Venkatesan

... Petitioner

VS.

1.The District Collector,
Madurai District.

2.The Commissioner,
Municipal Corporation of Madurai,
Madurai.

3.Isbella

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 herein to remove the illegal constructions made by the third respondent in the property comprised in Door No.8, Yanakaran Sanndhi, Meenakshi Amman Kovil Street, Madurai more fully on the basis of the proceedings issued by the second respondent N.PO 1/8804/09 dated 01.04.2009 within the time stipulated by this Court.



W.P(MD)No.4270 of 2020

WEB COPY

For Petitioner

: Mr.S.Paul Murugesh

For Respondent No.1

: Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent No.2

: Mr.S.Vinayak

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to remove the illegal constructions made by the third respondent in the property comprised in Door No.8, Yanakaran Sanndhi, Meenakshi Amman Kovil Street, Madurai more fully on the basis of the proceedings issued by the second respondent N.PO 1/8804/09 dated 01.04.2009 within the time stipulated by this Court.



W.P(MD)No.4270 of 2020

WEB COPY

2. When the matter was taken up for hearing today, the learned counsel appearing for the second respondent Corporation would submit that the third respondent has obtained building plan approval only for the ground floor and first floor, but she has unauthorizedly constructed second and third floor and the authority concerned will take necessary action for removal of the unauthorized construction of the second and third floor within the time stipulated by this Court.

3. At this juncture, it would be beneficial to refer the Judgment of the Division Bench of this Court in **M.Rahamathunisha and others Vs. Commissioner, Greater Chennai Corporation, Chennai and another** reported in **[2022 (6) CTC 145]**, wherein the Division Bench of this Court has held as follows:

'19. Applying the parameters laid down by this Court as well as the Hon'ble Supreme Court in the decisions mentioned supra to the present case, wherein, the petitioners sought an interim order forbearing the respondent authorities from taking coercive steps, so as to enable them to rectify and restore the subject building in consonance with the permissible planning rules and regulations, within a period of six months, this court is of the opinion that the practice of putting up an illegal



W.P(MD)No.4270 of 2020

WEB COPY

construction and subsequently seek for regularisation or rectification should not be encouraged as it would give a wrong impression that a building can be unauthorisedly constructed and later, defects could be rectified. In such cases, the plea for regularisation or rectification should not be entertained either as a matter of course or routine and it should be considered sparingly and reasonably. If it is shown that an unauthorised construction has been put up, it should be ordered to be demolished, thereby indicating a strong warning signal to the perpetrators of such offences. It is trite law that the respondent authorities should take action for the services rendered to the public, whereas in the instant case, after so many litigations, at the instance of the complainant, who is the neighbour of the subject building, the officials have taken action in accordance with law. In many cases, they failed to do so promptly and appropriately; and the completion certificate issued by the authorities is, without proper verification of the actual status of the building, whether there is deviation / unauthorised construction.'

4.Further, in order to curb the unauthorized constructions, the Government has constituted a High Level Monitoring Committee and issued G.O(2D)No.15, Municipal Administration and Water Supply (MA.1) Department, dated 01.03.2024. As per the said Government Order, the Committee shall monitor the inspection of the unauthorized buildings.



W.P(MD)No.4270 of 2020

WEB COPY

5.Considering the facts and circumstances of the case and also considering the fact that the respondents 3 and 4 have constructed unauthorizedly second and third floor in the building in question, we direct the second respondent Corporation to take necessary action for removal of the unauthorized construction in respect of the portion of the building in question, namely second and third floor, in accordance with law, after giving notice to the parties concerned. The said exercise shall be completed within twelve weeks from the date of receipt of a copy of this order.

6.With the above direction, the Writ Petition is disposed of. No costs.

[D.K.K.,J.] [R.V.,J.]
06.03.2024

NCC : Yes / No
Index : Yes / No
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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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