



W.P(MD)No.7289 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7289 of 2024

and

W.M.P.(MD)No.6713 of 2024

B.Shanthi

... Petitioner

Vs.

1.The Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai-600 008.

3.The Commissioner,
Madurai Corporation,
Madurai.

4.The City Engineer,
Madurai Corporation,
Madurai.

5.The Directorate,
Directorate of Town & Country Planning,
2nd, 3rd & 4th Floor, C & E Market Road,
Koyambedu,
Chennai-600 107.



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(R5 is impleaded by this Court
vide order dated 27.03.2024
in W.M.P.(MD)No.7156 of 2024)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the fifth respondent not to take any coercive steps pursuant to the notice dated 11.05.2023 and 06.07.2023 issued under Section 56(1) & (5) of Tamil Nadu Town and Country Planning Act, 1971, with respect to the premises of the petitioner situated at M/s.Lakshmana Multispeciality Hospital, Madakulam Village, TPK Taluk, Madurai pending determination of the application for regularisation under Section 113-C of the Tamil Nadu Town and Country Planning Act before the second respondent vide application dated 15.03.2024.

*(Prayer is amended by this Court vide order dated 27.03.2024
in W.M.P.(MD)No.7158 of 2024)*

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 & R2

: Mrs.Devasena for R3 & R4

ORDER

Heard the learned counsel on either side.

2. The petitioner is running a Multispeciality Hospital in Pykara in Madurai. The petitioner obtained planning approval from the Madurai



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Corporation for putting up the construction. It is admitted that the construction was put up beyond the permitted extent. One R.Mayilsamy filed W.P.(MD)No. 29600 of 2023 for directing the authorities to take action in the matter. The petitioner herein was shown as 6th respondent in the said writ petition. The writ petition was disposed of on 21.12.2023 in the following terms:-

“2. Learned Standing Counsel appearing for Madurai City Municipal Corporation made a submission that actions were already initiated based on the complaint given by the petitioner and a lock and seal notice was issued as early as on 06.07.2023. In view of certain circumstances, the respondent Corporation requires some more time to remove the unauthorized construction.

3. We direct the official respondents to complete the entire process in all respects within a period of eight weeks from the date of receipt of a copy of this order.”

Pursuant to the undertaking given before the Hon'ble Division Bench, the corporation authority have initiated action. At this stage, the present writ petition came to be filed.

3. The learned counsel for the petitioner states that she had already moved the Government seeking exemption under Section 113 of the Town and Country Planning Act. Her submission is that if in the meanwhile coercive action is taken, her attempt to obtain exemption would be rendered infructuous. It is also pointed out that she was not put on notice by the Hon'ble Division Bench before passing the final order.



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4. The learned Government Advocate appearing for the Government submitted that the Government may not be in a position to intervene in view of the order passed by the Hon'ble First Bench on 03.07.2023 in W.P.(MD)Nos. 23889 of 2017 & 23119 of 2018. If in the meanwhile any adverse action is taken, the petitioner's rights would be totally frustrated. The petitioner in my view deserves to be given some breathing time. I cannot also pass any order that would run at cross-purposes. He had filed a review earlier. Till the Hon'ble Division Bench takes a call in the matter, the respondents will not precipitate the matter.

5. The learned counsel for the petitioner states that he will expedite the process of review application. In any event, the petitioner has to obtain relief within a period of three months. This order granting temporary respite to the petitioner will hold good only for a period of three months. It is for the petitioner to obtain relief either at the hands of the Hon'ble Division Bench or before the Hon'ble Apex Court. I make it clear that I have not gone into the merits of the matter. The petitioner is at liberty to pursue the matter with the first respondent in the meanwhile.



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6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

27.03.2024

Index : Yes / No
Internet : Yes/ No
rmi

To

1.The Principal Secretary to Government,
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Chennai-600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
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G.R.SWAMINATHAN, J.

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