



W.P.(MD) No.8871 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.8871 of 2020

and

W.M.P.(MD)No.8133 of 2020

Joint Commissioner / Executive Officer,
Arulmigu Mariyamman Thirukovil,
Samayapuram, Trichy District.

... Petitioner

-Vs-

1.The Executive Officer,
S.Kannanur Special Grade Town Panchayat,
S.Kannanur, Samayapuram,
Trichy District.

2.The Assistant Director,
Local Planning Authority,
Trichy Region, Trichy.

3.C.Natarajan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to demolish the illegal construction made by the 3rd respondent at S.No.262, Door No.14/2, North Madavala Street, S.Kannanur, Samayapuram, Trichy District in terms of the



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proceedings of the 1st respondent made in Na.Ka.No.384/2020/A1, dated 15.07.2020.

For Petitioner : Mr.K.Govindarajan
For R1 : Mr.N.Satheesh Kumar,
Standing Counsel
For R2 : Mr.S.P.Maharajan,
Special Government Pleader
For R3 : No Appearance

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

This Writ Petition is filed seeking for a direction to the respondents 1 and 2 to demolish the illegal construction made by the 3rd respondent at S.No.262, Door No.14/2, North Madavala Street, S.Kannanoor, Samayapuram, Trichy District, in terms of the proceedings of the 1st respondent made in Na.Ka.No.384/2020/A1, dated 15.07.2020.

2.According to the petitioner, the 3rd respondent constructed the building in question without getting any prior permission from the authority concerned. Therefore, he made a complaint before the 1st respondent and based on the said complaint, the 1st respondent, after conducting spot inspection, vide proceedings



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dated 15.07.2020, passed a detailed order that the 3rd respondent shall not proceed with the construction and thereby, rejected the building plan approval. Despite the said proceedings issued by the 1st respondent, the 3rd respondent has proceeded the aforesaid construction in the property in question. Therefore, the petitioner has filed this Writ Petition with the aforesaid prayer.

3.The learned counsel appearing for the petitioner submitted that when this case is taken up for admission, this Court, vide order dated 12.08.2020, granted an order of interim injunction till 07.09.2020 and thereafter, the same has not been extended. Taking advantage of the same, the 3rd respondent has constructed the entire building unauthorizedly.

4.The learned Standing Counsel appearing for the 1st respondent submitted that pursuant to the interim injunction granted by this Court dated 12.08.2020, notice dated 28.08.2020 had been served to the 3rd respondent and subsequently, no action has been taken due to the pendency of this Writ Petition.

5.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 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



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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.'

6.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.

7.Considering the submissions made by the learned Standing Counsel for the 1st respondent and in the light of the aforesaid decision, we direct the 1st respondent to proceed further for removal of unauthorized construction in accordance with law, after providing opportunity to all the parties concerned and complete the same within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that the said action to be carried out by the 1st respondent shall be monitored by the High Level Monitoring Committee headed by the District Collector, Trichy.



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8. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
26.03.2024

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

Yuva

To

1. The Executive Officer,
S.Kannanur Special Grade Town Panchayat,
S.Kannanur, Samayapuram,
Trichy District.

2. The Assistant Director,
Local Planning Authority,
Trichy Region, Trichy.

Copy to:-

The Chairperson / District Collector,
High Level Monitoring Committee,
Trichy District.



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D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

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