



W.P(MD)No.11336 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.11336 of 2020
and
W.M.P(MD)No.9929 of 2020**

L.Santhi

... Petitioner

VS.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Deputy Director,
The Town and Country Planning Department,
No.4, Hakkim Ajmal Khan Road,
Chinna Chokkikulam,
Madurai – 625 002.

3.The Assistant Commissioner,
Division No.3,
Madurai Corporation,
Theppakulam Cement Road,
Madurai – 625 009.

4.G.Sugumari
5.S.Ganesan

... Respondents



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WEB C 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 to 3 to remove the illegal and unauthorized construction made by the fourth and fifth respondents in their land at No.28, Vasuki Street, Valluvar Nagar, Mela Anuppanadi, Madurai and also encroaching a portion of the petitioner's land to an extent of 400 sq. ft at Ward No.53, Plot No.7, Door No.1/12, Vasuki Street, Valluvar Nagar, Madurai to beautify the Madurai City under the Smart City Scheme based on the petitioner's representation dated 06.07.2020 and also information received under the Right to Information Act from the first respondent dated 01.09.2020 within the period stipulated by this Court.

For Petitioner	: Mr.Ananth C.Rajesh
For Respondent Nos.1 & 3	: Mr.K.Manisekaran
For Respondent No.2	: Mr.N.Satheesh Kumar Additional Government Pleader
For Respondent Nos.4 & 5	: Mr.N.Vallinayagam

ORDER

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

The petitioner has filed the present Writ Petition to direct the respondents 1 to 3 to remove the illegal and unauthorized construction



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made by the fourth and fifth respondents in their land at No.28, Vasuki Street, Valluvar Nagar, Mela Anuppanadi, Madurai and also encroaching a portion of the petitioner's land to an extent of 400 sq. ft at Ward No.53, Plot No.7, Door No.1/12, Vasuki Street, Valluvar Nagar, Madurai, based on the petitioner's representation dated 06.07.2020 and also information received under the Right to Information Act from the first respondent dated 01.09.2020 within the period stipulated by this Court.

2. Seeking to remove the unauthorized construction made by the respondents 4 and 5 in the building in question, the petitioner made a representation, dated 06.07.2020 to the authority concerned. Since no action has been taken, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the respondents 4 and 5 would submit that the dispute is purely a private dispute and therefore, the said prayer cannot be sustainable.

4. 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**



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WEB COPY 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 appropriately; and the completion certificate issued by the



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authorities is, without proper verification of the actual status of the building, whether there is deviation / unauthorised construction.'

5.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.

6.Considering the facts and circumstances of the case, we are of the view that even though the dispute is a private dispute regarding the title over the property and the issue involved in the present Writ Petition is that the respondents 3 and 4 have obtained necessary building approval from the competent authority or not, wherein, the petitioner has not placed any material before this Court to show that the respondents 3 and 4 have obtained building approval from the competent authority, the first respondent Corporation is directed to take necessary action for removal of the unauthorized construction in the building in question, if any, in accordance with law, after giving notice to the parties concerned. The said



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exercise shall be completed within twelve weeks from the date of receipt of a copy of this order.

7.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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

NCC : Yes / No
Index : Yes / No
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To

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and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 06.03.2024