



W.P(MD)No.1103 of 2019

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.1103 of 2019
and
W.M.P(MD)No.924 of 2019**

A.Mohan

... Petitioner

VS.

- 1.The Corporation of Madurai,
Represented by the Commissioner,
Madurai Corporation,
Madurai – 625 002.
- 2.The Assistant Commissioner,
Corporation of Madurai – Zone 4,
West Perumal Maistry Street,
Madurai – 625 001.
- 3.The Assistant Executive Engineer (Planning),
Corporation of Madurai – Zone 4,
West Perumal Maistry Street,
Madurai – 625 001.

4.A.Murugarajan

... 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 to 3 to remove the unauthorized construction of house made by the fourth

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respondent at 190-B, Thirumurugan Colony, G.S.T Road, Thirunagar, coming under Madurai Corporation Ward No.97, in the light of the proceedings M4A4/15157/18, dated 03.10.2018 of the third respondent.

For Petitioner	: Mr.I.Pinyagash
For Respondent Nos.1 to 3	: Mr.K.Manisekaran
For Respondent No.4	: Mr.PT.S.Narendravasan

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 to 3 to remove the unauthorized construction of house made by the fourth respondent at 190-B, Thirumurugan Colony, G.S.T Road, Thirunagar, coming under Madurai Corporation Ward No.97, in the light of the proceedings M4A4/15157/18, dated 03.10.2018 of the third respondent.

2. Seeking to remove the unauthorized construction made by the fourth respondent in the abovesaid property, the petitioner has made a



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representation to the respondents 1 to 3. Since the same has not been considered, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the respondents 2 and 3 would submit that stop work notice has been issued by the second respondent on 19.09.2018 and demolition order has been issued by the third respondent on 03.10.2018. Subsequently, penalty has also been imposed as against the fourth respondent.

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** 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



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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 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.



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6.From the facts and circumstances of the case, it is clear that the fourth respondent has not obtained necessary permission from the competent authority. Therefore, the first respondent is directed to take action for removal of the unauthorized construction in the building in question, 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.

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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ps

ORDER MADE IN
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DATED : 06.03.2024