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W.P.(MD) No.1117 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM:

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

W.P.(MD) No.1117 of 2019

and

W.M.P.(MD) No.941 of 2019

Dr.S.Ramanujamohan (Died)
S.Ranjani
[The petitioner is substituted *vide*
order dated 07.03.2024 in W.M.P.
(MD) No.5458 of 2024]

... Petitioner

-VS-

1.The Director
Office of the Directorate of
Town and Country Planning
Anna Salai, Chennai-600 002

2.The District Collector
Collectorate
Thoothukudi District



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3.The Deputy Director
The Town and Country Planning
Tirunelveli Zone
South Bye Pass Road
Tirunelveli-5

4.The Commissioner
Kovilpatti Municipality
Kovilpatti
Thoothukudi District

5.Mahalakshmi

6.Sahadevan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 4 to take action against the respondents 5 and 6 for the illegal and unauthorized constructions in Door Nos.49A and 50 situated in Survey Nos.513/23 and 513/21, Santhaipettai Street, Kovilpatti, Thoothukudi District, in accordance with law.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 to R3
Mr.J.Parekh Kumar for R4
Mr.Pon Senthil Kumaran for R5 & R6



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ORDER

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

Prayer in this writ petition is to direct the respondents 1 to 4 to take action against the respondents 5 and 6 for their illegal and unauthorized construction in Door Nos.49A and 50, situated in Survey Nos.513/23 and 513/21, Santhaipettai Street, Kovilpatti, Thoothukudi District, in accordance with law.

2. According to the petitioner, the respondents 5 and 6 have in fact obtained building plan approval from the fourth respondent for construction of ground floor and first floor for residential purpose. However, despite the same, they started construction of first and second floors for commercial purpose. Further, there is a major deviation in the construction of building as the respondents 5 and 6 have put up construction in the setback area also. Though a notice under Section 205(1)(2) of the Tamilnadu District Municipalities Act has been issued to the respondents 5 and 6, subsequently, no action has been taken against them to stop the construction and they have completed the construction of second floor also without obtaining any approval from the competent authority. Seeking to take action against the



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respondents 5 and 6, though the petitioner submitted representations right from 09.06.2017 till 22.10.2018 to the respondents 5 and 6, the same did not yield any fruitful result. Therefore, the petitioner has filed the present writ petition.

3. Learned counsel for the respondents 5 and 6, on instructions, submitted that the respondents 5 and 6 have applied to the authority concerned for a revised plan for the second floor.

4. Taking into consideration the fact that though a notice under Section 205(1)(2) of the Tamilnadu District Municipalities Act has been issued to the respondents 5 and 6 and subsequently, it is seen that no action has been taken against them by the fourth respondent to stop the unauthorized construction, we direct the fourth respondent to take necessary action for removal of unauthorized construction in accordance with law, after providing due opportunity to the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order.



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5. To be noted, 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. The Monitoring Committee shall monitor the inspection of the unauthorized constructions as per the said Government Order. The fourth respondent shall file an action taken report before the Monitoring Committee for removal of the unauthorized construction made by the respondents 5 and 6.

6. With the above direction, this writ petition is disposed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

07.03.2024

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

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