



W.P(MD)No.12683 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM:

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

**W.P(MD)No.12683 of 2019
and
W.M.P(MD)No.9423 of 2019**

A.Johnson Chinaraj

... Petitioner

VS.

1.The Commissioner,
Thanjavur Corporation,
Thanjavur.

2.P.Muthuvel

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent to take appropriate action against the second respondent for the unlawful construction made by him in S.F.No.259 of Neelagiri Therku Thottam Village, Thanjavur Taluk and District.



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For Petitioner : Mr.P.Ganapathi Subramanian
For Respondent No.1 : Mr.N.Dilip Kumar
For Respondent No.2 : Mr.N.Balakrishnan

ORDER

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

Prayer in this Writ Petition is to direct the first respondent to take appropriate action against the second respondent for the unlawful construction made by him in S.F.No.259 of Neelagiri Therku Thottam Village, Thanjavur Taluk and District.

2.According to the petitioner, the second respondent has made unauthorized construction in the building in question, without obtaining any building permission from the authority concerned. Hence, the petitioner submitted a representation dated 22.05.2019 to the authority concerned. However, the said representation has not been considered. Hence, the petitioner has filed the present Writ Petition.



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3.The learned counsel appearing for the first respondent, on instructions, submits that stop work notice has been served by the first respondent to the second respondent on 02.05.2019 and the building was constructed without plan approval in a private patta land and the authority concerned will take necessary action for removal of the unauthorized construction in accordance with law.

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 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



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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. In the light of the above, we direct the first 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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6.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 first respondent shall file an action taken report before the Monitoring Committee for removal of the unauthorized construction made by the second respondent.

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

[D.K.K.,J.] [R.V.,J.]
27.03.2024

NCC : Yes / No
Index : Yes / No
ps
To

The Commissioner,
Thanjavur Corporation,
Thanjavur.

Copy To:

The District Collector (Monitoring Committee),
Thanjavur.

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 27.03.2024