



W.P(MD)No.13314 of 2021

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.13314 of 2021

M.Veeralaxshmanan

... Petitioner

VS.

- 1.The Commissioner,
Madurai City Municipal Corporation,
Madurai.
- 2.The Executive Engineer,
Zone – II,
Madurai City Municipal Corporation,
Madurai.
- 3.The Assistant Director,
Planning,
Madurai City Municipal Corporation,
Madurai.
- 4.The Assistant Engineer,
Zone – II,
Madurai City Municipal Corporation,
Madurai.
- 5.The Member Secretary/Commissioner,
Local Planning Authority,
Madurai.



WEB CTS 6.S.George

W.P(MD)No.13314 of 2021

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to seal the premises bearing Plot No.17, 2nd Street, Mahalakshmi Nagar, Madurai – 7, comprised in Old Survey No.18/2, Re-Survey No.20/1B, Ward No.26, Parasurampatti Village, Madurai North Taluk and consequently to remove the illegal construction made by the sixth respondent herein in the southern side of the boundary on the setback area and thereby violation of approved building plan using their statutory powers within a time stipulated by this Court.

For Petitioner	: Mr.R.M.Suresh
For Respondent Nos.1 to 4	: Mr.K.Manisekaran
For Respondent No.5	: Mr.N.Satheesh Kumar Additional Government Pleader
For Respondent No.6	: Mr.M.Prabhakaran

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 5 to seal the



W.P(MD)No.13314 of 2021

WEB COPY

premises bearing Plot No.17, 2nd Street, Mahalakshmi Nagar, Madurai – 7, comprised in Old Survey No.18/2, Re-Survey No.20/1B, Ward No.26, Parasurampatti Village, Madurai North Taluk and consequently to remove the illegal construction made by the sixth respondent herein in the southern side of the boundary on the setback area and thereby violation of approved building plan using their statutory powers within a time stipulated by this Court.

2.When the matter was taken up for hearing today, the learned counsel appearing for the respondents 1 to 4 Corporation would submit that the sixth respondent has obtained building plan approval for construction of the building in question from the authority concerned, but there is a deviation in the aforesaid construction of the building in question and the authority concerned will take necessary action for removal of the said deviation in the building in question, within the time stipulated by this Court.

3.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**



W.P(MD)No.13314 of 2021

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



W.P(MD)No.13314 of 2021

WEB COPY

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

4.Considering the facts and circumstances of the case and also considering the fact that the sixth respondent has deviated in the building in question, we direct the first respondent Corporation to take necessary action for removal of the deviated portion of 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.

5.With the above direction, the Writ Petition is disposed of. No costs.

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

NCC : Yes / No
Index : Yes / No
ps



W.P(MD)No.13314 of 2021

WEB COPY

To

- 1.The Commissioner,
Madurai City Municipal Corporation,
Madurai.
- 2.The Executive Engineer,
Zone – II,
Madurai City Municipal Corporation,
Madurai.
- 3.The Assistant Director,
Planning,
Madurai City Municipal Corporation,
Madurai.
- 4.The Assistant Engineer,
Zone – II,
Madurai City Municipal Corporation,
Madurai.
- 5.The Member Secretary/Commissioner,
Local Planning Authority,
Madurai.



WEB COPY



W.P(MD)No.13314 of 2021

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

ps

ORDER MADE IN
W.P(MD)No.13314 of 2021

DATED : 06.03.2024