



W.P(MD)No.14143 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.14143 of 2020

Duraisamy @ Dickrews

... Petitioner

VS.

- 1.The Commissioner,
Madurai City Municipal Corporation,
Anna Maligai,
Tallakulam,
Madurai – 625 002.
- 2.The Assistant Commissioner,
West Zone – Zone No.1,
Madurai City Municipal Corporation,
T.B.Road,
Madurai – 625 016.
- 3.The Assistant Engineer,
Water Supply and Drainage,
Madurai City Municipal Corporation,
West Zone – Zone No.1,
T.B Road, Madurai – 625 016.
- 4.The Town and Country Planning Officer,
Madurai City Municipal Corporation,
Anna Maligai,
Tallakulam, Madurai – 625 002.



5.S.John Jerald

... Respondents

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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 4 to remove the unauthorized construction constructed by the fifth respondent at Door No.9, Singarapuram, S.T.C Main Road, Madurai – 625 016 based on the petitioner's representation dated 03.07.2020.

For Petitioner : Mr.S.Muniyandi

For Respondent Nos.1 to 4 : Mr.K.Sivabalan

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 4 to remove the unauthorized construction constructed by the fifth respondent at Door No.9, Singarapuram, S.T.C Main Road, Madurai – 625 016 based on the petitioner's representation dated 03.07.2020.

2.When the matter was taken up for hearing today, the learned counsel appearing for the respondents 1 to 4 Corporation would submit that

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notice has been served to the fifth respondent for unauthorized construction of the building in question and the authority concerned will take necessary action for removal of the same 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** 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



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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.'

4.Considering the facts and circumstances of the case and also considering the fact that the fifth respondent has unauthorizedly constructed in the building in question, we direct the first respondent Corporation to take necessary 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.

5.To be noted, in order to curb the unauthorized constructions, the Government has constituted a High Level Monitoring Committee and



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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 fifth respondent.

6.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
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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
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DATED : 06.03.2024