



W.P(MD)No.13313 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

CORAM:

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

**W.P(MD)No.13313 of 2022
and
W.M.P(MD)No.9453 of 2022**

R.P.Ramaiah,
S/o.R.Palanisamy,
Secretary,
Natham Road,
Abirami Nagar Kudiyruppor Nala Sangam,
No.7, Abirami Nagar,
Natham Road,
Dindigul – 624 003.

... Petitioner

vs.

- 1.The Secretary to Government,
Department of Housing and Urban Development,
Secretariat,
Chennai.
- 2.The Commissioner,
Office of the Commissioner of Town and Country Planning,
No.807, Anna Salai,
Chennai – 600 002.
- 3.The District Collector,
Dindigul District,
Dindigul.



W.P(MD)No.13313 of 2022

WEB COURT

4.The Deputy Director of Town and Country Planning,
Office of the Deputy Director of Town and Country Planning,
Opposite to R.K.G Gangadharan Rotary Club Hall,
Vivekanantha Nagar,
Dindigul – 624 001.

5.The Commissioner,
Dindigul Corporation,
Dindigul.

6.P.Vijayakumar ... Respondents

(R – 1 deleted from the array of parties and R2 to R7
are re-ranked as R1 to R6, vide order dated 27.06.2022)

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 remove the unauthorized and illegal construction made by the sixth respondent in the combined total area of 19129 sq. ft situated in T.S.No.1878/1/A4, Adiyanoothu Village, Dindigul Town by invoking Section 296(1) of the Dindigul City Municipal Corporation Act, 2013 within a time frame fixed by this Court.

For Petitioner	: Mr.R.R.Kannan
For Respondent Nos.1 to 4	: Mr.T.Amjad Khan Government Advocate
For Respondent No.5	: Mr.J.Lawrance
For Respondent No.6	: Mr.R.Ramanujam



W.P(MD)No.13313 of 2022

WEB COPY

ORDER

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

Prayer in this Writ Petition is to direct the respondents 1 to 5 to remove the unauthorized and illegal construction made by the sixth respondent in the combined total area of 19129 sq.ft situated in T.S.No.1878/1/A4, Adiyanoothu Village, Dindigul Town by invoking Section 296(1) of the Dindigul City Municipal Corporation Act, 2013 within a time frame fixed by this Court.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

3.According to the petitioner, the sixth respondent has purchased three housing plots comprised in T.S.No.1878/1/A4, Adiyanoothu Village, Dindigul Town and started a construction of a Hospital in the property in question during the month of January, 2022. The above housing plots are not having requisite facilities in order to discharge the drainage water. In the meantime, the sixth respondent has started construction works on 24.02.2022 without even obtaining building plan approval from



W.P(MD)No.13313 of 2022

WEB COPY

the respondents 4 and 5. In this regard, the petitioner sent a representation to the fourth respondent to stop the illegal and unauthorized construction. While so, one K.Saravanan, one of the members of the petitioner's Sangam, has sent a petition to the fifth respondent under the Right to Information Act, 2005 seeking information with regard to the illegal and unauthorized construction made by the sixth respondent in T.S.No.1878/1A4. In reply, the fifth respondent has stated that for constructing a building without permission, action will be initiated under the provisions of Section 274(1) r/w 441 (c), 296 (1)(2) and under Section 296(3) r/w 447 (c) of the Dindigul City Municipal Corporation Act, 2013. Hence, the petitioner sent a detailed representation to the official respondents, dated 14.03.2022 to stop the illegal and unauthorized construction of Multi Speciality Hospital made by the sixth respondent in between the residential tenement. On receipt of the said representation, the fifth respondent vide communication dated 29.03.2022, stated that the construction work has been started in a different place and hence, the fifth respondent has stopped the construction work and as such, no construction works are going on in the subject place. Since the official respondents have not taken steps for stopping the illegal and unauthorized construction made by the sixth respondent, the petitioner has filed the present Writ Petition.

4/10



W.P(MD)No.13313 of 2022

WEB COPY

4.The learned counsel appearing for the fifth respondent Corporation submitted that the sixth respondent has obtained necessary building approval from the authority concerned for construction of the building in question under the commercial category. Therefore, the statement made by the petitioner is contrary to the facts of the case. Further, the learned counsel appearing for the fifth respondent Corporation has produced the proceedings of the fifth respondent in Na.Ka.No.2114/2022/F.2 dated 29.03.2022, wherein it is stated that the fifth respondent has granted permission for constructing the building in question for the stilt floor, first floor and second floor, vide order dated 14.02.2022. Further, it is stated that since the building construction has been started in different place and earthwork excavation has been started, the fifth respondent Corporation has stopped the construction of the building in question and further, there is no construction activities carried on.

5.The learned counsel appearing for the sixth respondent submitted that the sixth respondent has obtained planning permission for the property comprised in Survey No.1877/1C, 1878/1A (New Survey No.1878/1A4) in Adiyanoothu Village, Dindigul Town and he has constructed



W.P(MD)No.13313 of 2022

the building in the aforesaid property in question and he has not constructed the building in other survey numbers.

6.On a perusal of the materials available on record, it is seen that pursuant to the building plan approval granted by the authority concerned, the sixth respondent has started only the excavation work. Based on the communication sent by the fifth respondent, dated 29.03.2022, to the petitioner, he has filed the present Writ Petition contending that the construction work made by the sixth respondent is an unauthorized construction. The entire allegation of the petitioner is totally contrary to the facts of the case and he had the knowledge that the authority concerned has granted permission to the sixth respondent to construct the building in question. Further, the petitioner alleges that construction work has been carried out in different place by doing earthwork excavation. This allegation is found to be incorrect as the petitioner has not produced any material to substantiate the said allegation. Without producing any relevant materials before this Court, the petitioner has filed the present Writ Petition by simply relying upon the communication sent by the fifth respondent.



W.P(MD)No.13313 of 2022

WEB COPY

7.All these facts clearly show that the petitioner has approached this Court without producing any relevant materials or documents to establish that the sixth respondent has commenced construction activities in different place and besides that the specific allegation of the petitioner is that without obtaining building plan approval from the authority concerned, the sixth respondent has started earth excavation work on 24.02.2022 and the same has been averred in paragraph No.5 of the affidavit filed in support of the Writ Petition. Though the petitioner has stated that the sixth respondent has made illegal construction, in the communication, dated 29.03.2022, the fifth respondent has stated that the sixth respondent has obtained building permission for the stilt floor, first floor and second floor. Further, the planning permission granted by the second respondent shows that the sixth respondent has obtained permission for commercial purpose. Without verifying all these facts, the petitioner has filed the present Writ Petition. The further allegation of the petitioner is that the sixth respondent has constructed the building in question in different place, but the petitioner has not produced any material or document before this Court to show that the building in question has been constructed in a different place. Besides, the sixth respondent has obtained planning permission from the competent authority. While approaching the Court, the petitioner must come with clean



W.P(MD)No.13313 of 2022

WEB COPY

hands and place all the relevant materials. Hence, we are of the view that the prayer sought for by the petitioner cannot be entertained in the absence of necessary materials before this Court and the same deserves to be dismissed. Further, we are of the view that pursuant to the objection made by the petitioner Sangam, the construction work carried out by the sixth respondent has been stopped and the Writ Petition is pending for more than two years. Hence we are inclined to impose a cost on the petitioner.

8. Accordingly, this Writ Petition is dismissed with costs of Rs.25,000/- (Rupees Twenty Five Thousand Only) payable by the petitioner to the Legal Services Authority, Madurai Bench of Madras High Court, Madurai, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
25.03.2024

NCC : Yes / No
Index : Yes / No
ps



W.P(MD)No.13313 of 2022

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Secretariat,
Chennai.
- 2.The Commissioner,
Office of the Commissioner of Town and Country Planning,
No.807, Anna Salai,
Chennai – 600 002.
- 3.The District Collector,
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- 4.The Deputy Director of Town and Country Planning,
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WEB COPY



W.P(MD)No.13313 of 2022

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

ps

ORDER MADE IN
W.P(MD)No.13313 of 2022

DATED : 25.03.2024

10/10