



**W.P.(MD) No.13233 of 2024**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 20.06.2024**

**CORAM:**

**THE HON'BLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE  
and  
THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD) No.13233 of 2024**

**and**

**W.M.P.(MD) No.11712 of 2024**

Natarajan

... Petitioner

-vs-

- 1.The District Collector /  
Monitoring Committee  
District Collectorate  
Triuchirappalli District – 621 001
- 2.The Assistant Director  
Local Planning Authority  
Trichy Region  
Triuchirappalli District – 620 001
- 3.The Executive Officer /  
Joint Commissioner  
Arulmigu Mariyamman Thirukovil  
Samayapuram, Triuchirappalli District
- 4.The Revenue Divisional Officer  
Revenue Divisional Office  
Lalgudi Taluk  
Triuchirappalli District – 621 601



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5.The Assistant Director  
District Urban Development Department  
Triuchirappalli District – 621 001

6.The Executive Officer  
S.Kannanur Special Grade Town Panchayat  
S.Kannanur, Samayapuram  
Triuchirappalli District – 621 112

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned notice issued by the sixth respondent herein in his proceeding in Na.Ka.No.384/A1/2020 dated 23.05.2024 and quash the same as illegal and consequently direct the respondents to grant building plan approval to the petitioner's building situated in Old S.No.262/9, New Survey No.262/11 at Door No.14/1 and 14/2, North Madavala Street, S.Kannanur, Samayapuram, Trichy District, by considering his representation dated 01.06.2024 and 03.06.2024.

For Petitioner : Ms.K.Vidya  
for Mr.C.Abul Kalam Azad

For Respondents : Mr.N.Satheesh Kumar  
Addl. Govt. Pleader for R1, R2 & R4 to R6  
Mr.S.Ramesh for R3



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**ORDER**

**R.MAHADEVAN, A.C.J.**

**And**

**G.R.SWAMINATHAN, J.**

Heard the learned counsel for the petitioner, learned Additional Government Pleader for the respondents 1, 2, 4 to 6 and learned counsel for the third respondent.

**2.** With the consent of both sides, this writ petition is taken up for disposal at the admission stage itself.

**3.** The notice dated 23.05.2024, issued by the sixth respondent, directing the petitioner not to use the subject building and calling upon him to give explanation in fifteen days as to why the subject building should not be demolished, is under challenge in this writ petition. A consequential direction to the respondents is also sought by the petitioner to grant building plan approval to the subject building, by considering his representations dated 01.06.2024 and 03.06.2024.

**4.** The prime grievance of the petitioner is that though this Court by order dated 29.04.2024, passed in W.P.(MD) No.10582 of 2024, filed by the



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petitioner earlier seeking a direction to the respondents 2, 3 and 6 herein to grant building plan approval, had directed the sixth respondent herein to hear the petitioner before passing any final order, the sixth respondent, without giving such opportunity of hearing to the petitioner, has issued the impugned notice. According to the petitioner, the impugned notice though styled as a show cause notice, it states that if the petitioner's explanation is contrary to the relevant rules or in case of non-submission of explanation, within the stipulated time, the subject building will be demolished, which attracts clear violation of the direction given by this Court in W.P.(MD) No.10582 of 2024, where this Court has specifically held that the sixth respondent is obliged to hear the petitioner before passing any final order. Hence, the impugned notice is liable to be set aside.

**5.** Learned Additional Government Pleader appearing for the respondents 1, 2, 4 to 6, on instructions, submitted that the petitioner may be directed to give explanation to the impugned order by treating the same as a show cause notice. He further submitted that if the petitioner's explanation is not satisfactory, only after affording opportunity of hearing to the petitioner, final order will be passed.



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**6.** Perusal of records show that originally, the third respondent temple filed W.P.(MD) No.8871 of 2020 for a mandamus to demolish the illegal construction put up by the third respondent therein / petitioner herein, contending that despite the sixth respondent's proceedings dated 15.07.2020, rejecting the plan approval to the petitioner herein, the petitioner herein proceeded with the construction. Though in the said writ petition, the petitioner herein was arrayed as third respondent and he was served with notice dated 28.08.2020, he had not entered his appearance either by himself or through counsel. However, this Court by order dated 26.03.2024, disposed of the said writ petition in the following terms:

*"7.Considering the submissions made by the learned Standing Counsel for the 1st respondent and in the light of the aforesaid decision, we direct the 1<sup>st</sup> respondent to proceed further for removal of unauthorized construction in accordance with law, after providing opportunity to all the parties concerned and complete the same within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that the said action to be carried out by the 1<sup>st</sup> respondent shall be monitored by the High Level Monitoring Committee headed by the District Collector, Trichy."*



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**7.** The said order discloses that though the petitioner did not choose to defend his case, this Court has specifically directed for removal of unauthorised construction only after providing opportunity to all the parties concerned within twelve weeks. Thereafter, the petitioner filed W.P.(MD) No. 10582 of 2024 for a mandamus to consider his representation and to direct the sixth respondent to grant building plan approval and this Court by order dated 29.04.2024, has disposed of the said writ petition in the following terms:

"The petitioner herein was shown as R3. The writ prayer was against him. The petitioner herein failed to enter appearance before the Division Bench. The order of the Division Bench in fact protects the petitioner's rights. Notice was directed to be given to the petitioner. Therefore, the third respondent is obliged to hear the petitioner before passing any final order."

**8.** Pursuant to the said order, the present impugned notice has been issued. As rightly contended by the petitioner, though the impugned notice has been styled as a show cause notice, it states that if the petitioner's explanation is contrary to the relevant rules, the subject building will be



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demolished. In our view, under the garb of the impugned notice, the sixth respondent is trying to demolish the subject building without even hearing the petitioner as directed by this Court in W.P.(MD)No.10582 of 2024.

**9.** Having regard to the aforesaid facts and circumstances of the case and the earlier directions of this Court, we dispose of this writ petition with the following directions:

- (i) The petitioner shall submit explanation to the impugned notice on or before 04.07.2024.
- (ii) On receipt of such explanation from the petitioner, the authority concerned, after due intimation to the petitioner, shall conduct an enquiry by affording sufficient opportunity of hearing to the petitioner as well as all other persons interested as directed by this Court in W.P.(MD) No.8871 of 2020, dated 26.03.2024.
- (iii) The petitioner and other interested parties shall participate in the enquiry and put forth all their submissions along with supporting documents.
- (iv) Thereafter, the authority concerned shall pass orders on merits and in accordance with law, on or before



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25.07.2024, without any delay.

- (v) It is made clear that no adjournment shall be granted at any cost and the time limit, as fixed above, must be scrupulously followed by the parties as well as the authority concerned.

**10.** With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**[R.M.D., A.C.J.]                      [G.R.S., J.]**

**20.06.2024**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

**Note to Office:**

Issue order copy by 21.06.2024.

krk / ias



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