



W.P(MD)No.14388 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.14388 of 2020
and
W.M.P(MD)No.12030 of 2020**

A.Venkateswari

... Petitioner

VS.

1.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai.

2.The City Engineer,
Madurai Corporation,
Arignar Anna Maligai,
Madurai.

3.Kennedy

4.Karuppayee

5.Ramesh

6.Selvam

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the official respondents to initiate appropriate action against the respondents 3 to 6 for putting up unauthorized construction without approval of the first



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respondent and for removal of the encroachment made by them in the public street situated at Dr.Ambedkar Nagar, Ward No.37, Sellur, Madurai, based on the representation of the petitioner, dated 14.09.2020.

For Petitioner : Mr.A.Srinivasan
For Respondent No.1 : Ms.S.Devasena
For Respondent Nos.3 to 6 : Mr.M.Muthukumaran

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 official respondents to initiate appropriate action against the respondents 3 to 6 for putting up unauthorized construction without approval of the first respondent and for removal of the encroachment made by them in the public street situated at Dr.Ambedkar Nagar, Ward No.37, Sellur, Madurai, based on the representation of the petitioner, dated 14.09.2020.

2.When the matter was taken up for hearing today, the learned counsel appearing for the first respondent Corporation would submit that

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the respondents 3 to 6 have unauthorizedly constructed in the building in question and stop work notices have been served to the respondents 3 to 6 on 30.04.2020 and 10.11.2020 and the authority concerned will remove the same in accordance with law, within a time frame fixed 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 respondents 3 to 6 have constructed unauthorizedly in the building in question and stop work notice has been issued by the first respondent on 30.04.2020 and 10.11.2020, 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.



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5.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 respondents 3 to 6.

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

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

NCC : Yes / No
Index : Yes / No
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To

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Madurai Corporation,
Arignar Anna Maligai,
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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