



W.P(MD)No.14962 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.14962 of 2020
and
W.M.P(MD)No.12594 of 2020**

N.Veerasley

... Petitioner

VS.

- 1.The Commissioner,
Madurai City Municipal Corporation,
Madurai.
- 2.The Director,
Town and Country Planning Department,
Anna Maaligai,
Madurai.
- 3.The Assistant Engineer,
Madurai City Municipal Corporation,
South Ward, Sunday Chandy,
Pechiamman Padithurai,
Madurai.
- 4.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Tamilsangam Road,
Simmakal,
Madurai.



WEB C 5.P.Nagarajan

... Respondents

W.P(MD)No.14962 of 2020

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 4 to take action against the fifth respondent for putting unauthorized construction based on the representation of the petitioner, dated 11.10.2020.

For Petitioner	: Mr.P.Balan
For Respondent No.1	: Mr.S.Vinayak
For Respondent No.2	: Mr.N.Satheesh Kumar Additional Government Pleader
For Respondent No.4	: Mr.S.Deenadhayalan
For Respondent No.5	: Mr.R.Maheswaran

ORDER

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

The petitioner has filed the present Writ Petition to direct the respondents 1 to 4 to take action against the fifth respondent for putting up unauthorized construction, based on the representation of the petitioner, dated 11.10.2020.



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2. When the matter was taken up for hearing today, learned counsel appearing for the first respondent Corporation would submit that the fifth respondent has constructed the entire building unauthorizedly and the authority concerned will remove the same in accordance with law within a time frame fixed by this Court. However, the same is disputed by the fifth respondent.

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



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

4.Further, 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. As per the said Government Order, the Committee shall monitor the inspection of the unauthorized buildings.



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5.Considering the facts and circumstances of the case, we are of the view that if the fifth respondent has any approved plan for construction of the building in question, the same shall be placed before the first respondent Corporation within a period of two weeks from the date of receipt of a copy of this order. If no such plan has been submitted by the fifth respondent before the first respondent Corporation within the prescribed time, the first respondent is directed 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.

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

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ORDER MADE IN
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DATED : 06.03.2024