



W.P(MD)No.15057 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.15057 of 2024
and
W.M.P(MD)No.13198 of 2024**

A.Raja

... Petitioner

vs.

1.The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road,
Chennai – 28.

2.The Collector,
Theni District,
Theni.

3.The Commissioner,
Periyakulam Municipal Office,
Periyakulam.

4.A.Sevagaperumal

... Respondents

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 3 to take immediate action to remove the unauthorized construction and misappropriation of payment property tax by the fourth respondent based on the petitioner's representation, dated 30.10.2023.

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For Petitioner

: Mr.P.Muthuvijayapandian

For Respondents

: Mr.P.Thilak Kumar
Government Pleader
for R.1 & R.2

: Mr.N.Dilip Kumar
Standing Counsel
for R.3

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for herein is for a Writ of Mandamus, to direct the respondents 1 to 3 to take immediate action to remove the unauthorized construction and misappropriation of payment of property tax by the fourth respondent based on the petitioner's representation, dated 30.10.2023.

2. With regard to Survey No.2879 at Periyakulam Municipality, there has been a building already constructed by the fourth respondent. In order to ratify the same, he gave an application for plan approval on 09.02.2023 to the third respondent Municipality, which was considered and rejected by the Municipality on 16.02.2023 with the following order:



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பெரியகுளம் நகராட்சியிடமிருந்து அளவு எண் 2879, கதவுமனை எண் 1 குடியிருப்புக் கட்டிடம் / தொழிலகக் கட்டிடம் மனை உட்கிரிவு செய்த அனுமதி கோரிய திரு. சேஷு பெருமாள்

அவர்களின் விண்ணப்பம் பரிசீலனை செய்யப்பட்டது.

கீழ்க்கண்ட காரணங்களினால் அனுமதியின்றி நிராகரித்தல் அனுப்பப்படுகிறது.

1. நிலையில் உள்ள கட்டிடத்தில் முன்பு திறவிடம் பக்க திறவிடம் மற்றும் பின்பக்க திறவிடம் போதுமான அளவு கொடுக்கப்படவில்லை. கட்டிட விதி 35 அடிநிலை) பாதிக்கிறது.

2. பாகப்பிரிவினை பத்திரத்தில் ந.அ.எண்.2879/1ல் 251.48 ச.மீ பரப்பளவு உள்ளது.

ஆனால் 2879/1ல் உள்ள பட்டியலில் 113 ச.மீட்டர் பரப்பளவுதான் உள்ளது.

பட்டா அளவில் வேறுபாடு உள்ளது.

மேற்கண்டவற்று கட்டிடவிதிகள் பாதிக்கப்படுவதால் கட்டிட அனுமதி அளிக்கப்படுகிறது.

பெறுவார்,

சேஷு பெருமாள்

5/1 கார்ர மேட்டு, வவு கிழக்கு

தெரு, DAILY MARKET AREA, தெல்கேரை

0/0 ஆணையாளர்
பெரியகுளம் நகராட்சி

16/2/23
16/2/23
16/2/23

3. At this juncture, the petitioner, after having given a representation on 30.10.2023 to the official respondents to remove such unauthorized construction, has filed the present Writ Petition with the aforestated prayer.

4. Heard Mr.P.Muthuvijayapandian, learned counsel appearing for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader appearing for the respondents 1 and 2 and Mr.N.Dilip Kumar, learned standing counsel appearing for the third respondent. In view of the order that is proposed to be passed in this Writ Petition, notice to the fourth respondent is hereby dispensed with.



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5. The learned standing counsel appearing for the third respondent would submit that the building constructed by the fourth respondent is completely unauthorized. Even though his application belatedly submitted on 09.02.2023 had been considered and rejected by order dated 16.02.2023 of the third respondent Municipality, thereafter, he has not come forward to make any attempt to ratify the construction by making a fresh application or to file an appeal before the Appellate Authority. Therefore, as of now, the entire construction is an unauthorized one. Therefore, suitable action would be taken by the third respondent Municipality, he has contended.

6. Having regard to the said submissions made by the learned standing counsel appearing for the third respondent, we are inclined to dispose of this Writ Petition with the following orders:

'That there shall be a direction to the third respondent to issue notice to the fourth respondent as to the further course of action to be taken by the third respondent Municipality with regard to the building in question, which according to the third respondent



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Municipality is an unauthorized one, and after giving an opportunity of hearing to the fourth respondent, the third respondent can take action in accordance with law and that may be communicated to the fourth respondent as soon as enquiry is over and order is passed by the third respondent as indicated above.'

7.With this direction, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
08.07.2024

NCC : Yes / No
Index : Yes / No
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R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
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