



W.P(MD)No.25015 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2024

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

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R.Ambujarajan

... Petitioner

vs.

1. The District Collector / Chair Person,
High Level Monitoring Committee,
Virudhunagar District,
Virudhunagar.

2. The Commissioner,
Sivakasi Corporation,
Sivakasi, Virudhunagar District.

3. The Deputy Director
Office of the District Town and Country Planning,
B-70, Tamilnadu Housing Board,
N.G.O. Colony,
Chathira Reddiyapatti,
Virudhunagar – 626 001.

4. B.Venkateshwari

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to remove / demolish a part of unauthorized construction made in T.S.No.229, which is extended upto 320 sq.ft in T.S.No.223 and 224 by the 4th respondent at South



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Car Street, Ward No.40, Town Survey Ward-E, Block No.18, Sivakasi Corporation, Virudhunagar District, by considering the petitioner's representation dated 24.06.2024.

For Petitioner : Mr.M.Solaisamy
For R1 & R3 : Mr.J.Ashok, Additional Government Pleader
For R2 : Mrs.S.Devasena

ORDER

(Order of the Court was made by **M.S.RAMESH, J.**)

This writ petition has been filed for a Mandamus, directing the respondents 1 and 2 to remove / demolish a part of unauthorized construction made in T.S.No.229, which is extended upto 320 sq.ft in T.S.No.223 and 224 by the 4th respondent at South Car Street, Ward No.40, Town Survey Ward-E, Block No.18, Sivakasi Corporation, Virudhunagar District, by considering the petitioner's representation dated 24.06.2024.

2. The learned counsel appearing for the petitioner would submit that the 4th respondent has purchased the property in T.S.No.229 and started construction of commercial building in the said property. However, deviating the approved building plan, the 4th respondent is attempting to expand the construction by encroaching the petitioner's property in Survey No.223 and two other adjacent survey numbers. Pursuant to the application of the petitioner,



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the Surveyor also conducted survey of the petitioner's property and confirmed the unauthorised construction made by the 4th respondent. Though the petitioner made repeated representations and the last of which dated 24.06.2024, no steps were taken by the official respondents to remove the unauthorised construction made by the 4th respondent. Hence, this writ petition.

3. Heard both sides.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon him to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of the India and direct them to consider the same within a stipulated time.

5. In the light of the above observations, there shall be a direction to the official respondents herein, to consider the petitioner's representation dated 24.06.2024, on its own merits and pass appropriate orders in accordance with



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law, after giving due opportunity to the petitioner, private respondent as well as all other persons, who may be interested in the subject property, within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the concerned respondents to consider the same on its own merits.

6. With the above direction, the Writ Petition stands disposed of. No costs.

(M.S.R, J.) (A.D.M.C, J.)
20.11.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

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2. The Commissioner,
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and
A.D.MARIA CLETE, J.

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ORDER MADE IN
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DATED : 20.11.2024