



W.P(MD)No.20053 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.20053 of 2021

and

W.M.P(MD)Nos.16758 and 16759 of 2021

- 1.C.Kamatchi
- 2.C.Manikandan
- 3.Sivakala
- 4.C.Neeladhas
- 5.C.Prahalathan

... Petitioners

vs.

- 1 State of Tamil Nadu
Rep. by its Secretary,
Department of Town and Country Planning,
St.George Fort, Chennai.
- 2 The Director,
Department of Town and Country Planning,
Anna Salai, Chennai.
- 3 The Nagercoil Local Planning Authority,
Rep. by its Member Secretary (District Collector),
Collectorate, Kanyakumari District at Nagercoil.
- 4 The Melasankarankuzhi Panchayat,
Rep. by its President,
Melasankarankuzhi (Rajakkamangalam Union),
- 5 The Melasankarankuzhi Panchayat,
Rep. by its Executive Officer,
Nelasankarankuzhi, Asaripallam,
Kanyakumari District.



W.P(MD)No.20053 of 2021

6 The Deputy Director,
Town and Country Planning, Nagercoil,
Kanyakumari District.

7 Thulasi Iyyappan

8 The Chairperson,
High Level Monitoring Committee,
Kanyakumari District.

... Respondents

(8th respondent is suo-motu impleaded by this Court,
vide order dated 13.03.2024 by DKKJ & RVJ)

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 6 herein to consider the petitioner's representation, dated 13-10-2021 and 16-10-2021 and take appropriate steps to remove the unauthorized and illegal construction of shopping complex by the 7th respondent in Survey No.146/1 to an extent of 4 cents in Vembanoor West Agastheeswaram Taluk, Kanyakumari District as per the provisions of Tamil Nadu Town and Country Planning Act, 1971 and Tamil Nadu Panchayat Buildings Rules, 1997 within a time stipulated by this Honourable Court and remove unauthorized construction in accordance with law.

For Petitioners : Mr.D.Nallathambi

For RR1, 2, 3 & 6 : Mr.T.Amjad Khan,
Government Advocate

For R-4 : Mr.N.Muralikumaran

For R-7 : Mr.T.Sivakumar



W.P(MD)No.20053 of 2021

ORDER

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

The petitioners have filed this writ petition seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 6 herein to consider the petitioner's representation, dated 13-10-2021 and 16-10-2021 and take appropriate steps to remove the unauthorized and illegal construction of shopping complex by the 7th respondent in Survey No.146/1 to an extent of 4 cents in Vembanoor West, Agastheeswaram Taluk, Kanyakumari District as per the provisions of Tamil Nadu Town and Country Planning Act, 1971 and Tamil Nadu Panchayat Buildings Rules, 1997, within a stipulated time and remove the unauthorized construction in accordance with law.

2. A detailed counter affidavit has been filed by the fourth respondent panchayat by stating that the petitioners have made a representation on 09.09.2021 for removal of encroachment made in the aforesaid property in question. Subsequently, in the field inspection conducted on 12.09.2021, it was found that they came to know that the seventh respondent has violated the norms and constructed the building against the approved plan and therefore, the seventh respondent was instructed to stop the illegal construction.



W.P(MD)No.20053 of 2021

3. In the light of the above submission made in the counter affidavit, it is clear that the seventh respondent has illegally constructed the subject building by violation the planning permission. Therefore, as per G.O.Ms.No. 15, Municipal Administration and Water Supply (MA.1) Department, dated 01.03.2024, ***“the Chairperson, High Level Monitoring Committee, Kanyakumari District”*** is suo motu impleaded as eighth respondent in this writ petition.

4. The eighth respondent is directed to monitor the action taken by the respondents 3 and 4 for the unauthorized and illegal construction put up by the seventh respondent which is contrary to the approved plan, after providing opportunity to the seventh respondent. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

[D.K.K.,J.]

[R.V.,J.]

13.03.2024

NCC : Yes / No
Index : Yes / No
PM



W.P(MD)No.20053 of 2021

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WEB COPY



W.P(MD)No.20053 of 2021

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

PM

ORDER MADE IN
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DATED : 13.03.2024