



W.P.(MD)No.21409 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

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CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.21409 of 2024

N.Muthu Perumal

... Petitioner

-VS-

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Joint Director,
Urban Development Director,
Tenkasi, Tenkasi District.

3.The Commissioner,
Tenkasi Municipality,
Tenkasi.

4.The Secretary / Member,
(Incharge),
Town Planning Approval Controlling
Authority,
Office of the Town Planning
Approval Officer,
Tenkasi.

5.The Subbulakshmi Nursing Home,
No.473 and 475,
East Swami Sanithi Street,
Tenkasi, Tenkasi District-627 811.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 4 to remove the violation made by the 5th respondent's Hospital pursuant to the proceedings in Na.Ka.No. 47/2024 TDTCP of the 3rd respondent within stipulated time fixed by this Court.

<https://www.mhc.tn.gov.in/judis>



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W.P.(MD)No.21409 of 2024



For Petitioner : Mr.M.Anbarasan
For R-1, R-2 & R-4 : Mr.S.P.Maharajan,
Special Government Pleader
For R-3 : Mr.P.Athimoola Pandian
For R-5 : Mr.G.Prabhu Rajadurai

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The petitioner seeks a mandamus to the respondents 1 to 4 to remove the violations made by the 5th respondent Hospital pursuant to the proceedings in Na.Ka.No.47/2024 DDTCB of the 3rd respondent within the stipulated time.

2. The form 3 notice issued under Rule 5(a) seeking removal of unauthorized development has been placed before us. It is seen that the notice does not contain the relevant particulars. While it calls upon the 5th respondent to remove the unauthorized construction the details of the unauthorized construction have not been set out in the notice. The learned Government Pleader has filed a report in which a site inspection report is enclosed. The site inspection report states that the 5th respondent had produced a plan sanctioned in the year 2006, for residential buildings. The learned counsel for the petitioner has produced a plan that has been sanctioned for a hospital building consisting of ground plus two floors even in the year 1996.



W.P.(MD)No.21409 o.

plan that was sanctioned for putting up an additional construction in the year 1996, the plan approval file is not available in the Municipality. It also avers that the 5th respondent has obtained another planning approval for construction of a residential house in the very same property on 24.07.2006. While the plan that was sanctioned in 1996 specifies the door numbers as 181 and 181A, the plan that has been produced as if sanction was obtained in 2006 does not contain the door number.

4. We are unable to find out as to whether the 2nd plan relates to the same property or not, though there is an assertion by the Municipality in its counter affidavit that another plan has been obtained for the same place. Counter affidavit also states that is no further construction is going on in the property. The learned counsel for the 5th respondent would assert that the building as sanctioned in the year 1996 plan is the one that stands in the property as of today.

5. In view of the above, we find that the notice issued is laconic and the mandamus sought for cannot be issued in the circumstances. Hence, the writ petition is dismissed. There shall be no order as to costs.

[R.S.M., J.] [L.V.G., J.]

19.10.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
Sml



W.P.(MD)No.21409 of 2022

To

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Commissioner,
Tenkasi Municipality,
Tenkasi.
- 3.The Secretary / Member,
(Incharge),
Town Planning Approval Controlling
Authority,
Office of the Town Planning
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