



W.P.(MD) No.16966 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.16966 of 2018

1.M/s.P.A.Chinnappan

2.M/s.C.Paul Selvaraj

... Petitioners

-Vs-

1.The Commissioner,
Municipal Corporation,
Trichy District.

2.The District Collector,
Trichy, Trichy District.

3.Thiruvengadam

... Respondents

(R3 is impleaded vide Court order dated 20.08.2018 in W.M.P.(MD)No.15917 of 2018)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 15.07.2017 and to pass an order to restrain the owner of the Plot No.33, their heirs, assigns, servant, men, administrators and representatives upon raising illegal construction and common pathway.



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For Petitioner : Mr.R.Ravindran
For R1 : Mr.K.S.Kishore Ram,
M/s.R.B.Law Associates
For R2 : Mr.N.Satheesh Kumar,
Additional Government Pleader
For R3 : No Appearance

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

According to the petitioner, he made a representation dated 15.07.2017 to the respondents 1 and 2, pointing out the unauthorized construction put up by the 3rd respondent. Since the same has not been considered so far, he has filed this Writ Petition.

2.The learned counsel appearing for the 1st respondent submitted that notice has been served to the 3rd respondent under Section 296 of Trichirappalli City Municipal Corporation Act and subsequently, no action has been taken due to the pendency of this Writ Petition.

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.**



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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 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



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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.

5.Considering the submissions made by the learned counsel for the 1st respondent and in the light of the aforesaid decision, we direct the 1st respondent to proceed further for removal of unauthorized construction in accordance with law, after providing opportunity to all the parties concerned and complete the same within a period of twelve weeks from the date of receipt of a copy of this order.



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

[D.K.K., J.] & [R.V., J.]
26.03.2024

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

Yuva

To

1. The Commissioner,
Municipal Corporation,
Trichy District.
2. The District Collector,
Trichy, Trichy District.



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