



W.P(MD)No.21892 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2024

CORAM:

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

W.P(MD)No.21892 of 2021

P.Ramu

... Petitioner

VS.

1.The Commissioner,
Tenkasi Municipality,
Tenkasi.

2.The Town Country Planning Inspector,
Tenkasi Municipality, Tenkasi.

3.V.Palani

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 02.11.2021 seeking (i) to take departmental action against the second respondent for submitting false report to the first respondent; (ii) to conduct fresh inspection at the construction site either in person or by appointing some other responsible subordinate officer and (iii) to take action against the unauthorized construction put up by the third respondent in Door No.1, Nadumadhankoil Street, Tenkasi Town in accordance with law within the time limit fixed by this Court.

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For Petitioner	: Mr.K.K.Senthilvelan for Mr.V.Sasikumar
For Respondent Nos.1 & 2	: Mr.P.Aathimoolapandian
For Respondent No.3	: No appearance

ORDER

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

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus to direct the first respondent to consider the representation of the petitioner dated 02.11.2021 seeking to take departmental action against the second respondent for submitting false report to the first respondent; to conduct fresh inspection at the construction site either in person or by appointing some other responsible subordinate officer and to take action against the unauthorized construction put up by the third respondent in Door No.1, Nadumadhankoil Street, Tenkasi Town in accordance with law within the time limit fixed by this Court.



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2. According to the petitioner, the third respondent put up an unauthorized construction to an extent of 360 sq.ft in violation of the building plan approval granted by the first respondent. With regard to the same, the petitioner submitted a representation, dated 02.11.2021 to respondents 1 and 2. Since the said representation has not been considered, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the respondents 1 and 2 Municipality would submit that a notice has been issued by the first respondent, dated 28.03.2023 under Section 56(1) of the Tamil Nadu Town and Country Planning Act, 1971, to the third respondent. Challenging the same, the third respondent filed a Writ Petition in W.P(MD)No.9573 of 2023 and the Division Bench of this Court, vide order dated 14.09.2023, passed the following order:

'6. The impugned order is on the basis of an inspection and measurement taken by the officials. In such circumstances, the petitioner either should apply for regularisation or for retention of building in accordance with the Rules. Therefore, leaving it open to the petitioner to submit a fresh building plan for approval or for retention of the building showing that the existing construction is in accordance with the building Rules, this Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.



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7. It is needless to state that the first respondent shall consider the application submitted for approval or for retention of the building in the manner known to law and in accordance with law after giving adequate opportunity to the petitioner to carry out any modification if necessary. Till such time the application or the plan submitted by the petitioner is considered by the first respondent on merits, no coercive action shall be taken against the petitioner. Since the first respondent has reported that the second respondent has now constructed a building in violation of building plan, it is open to the first respondent to immediately take against the second respondent to bring the building constructed by the second respondent in accordance with approved plan, after an inspection and as per law.'

4.The learned counsel appearing for the respondents 1 and 2 Municipality would further submit that pursuant to the order passed by this Court in W.P(MD)No.9573 of 2023, dated 14.09.2023, the third respondent submitted an application for revised building plan approval before the first respondent/Municipality and the same is pending consideration.

5.In view of the above, considering the fact that the application for revised building plan submitted by the third respondent is pending before the first respondent Municipality, we direct the first respondent/Municipality to consider the petitioner's objection, while passing orders in revised building plan approval.



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

[D.K.K.,J.] [R.V.,J.]
21.02.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Commissioner,
Tenkasi Municipality,
Tenkasi.
- 2.The Town Country Planning Inspector,
Tenkasi Municipality,
Tenkasi.



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

ps

ORDER MADE IN
W.P(MD)No.21892 of 2021

DATED : 21.02.2024