



W.P.(MD)Nos.372 & 986 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2024

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CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)Nos.372 & 986 of 2017

and

W.M.P.(MD)No.836 of 2017

P.Surendara Babu

: Petitioner in both Writ Petitions

Vs.

1.The Commissioner,
Karur Municipality,
Karur – 639 001.
Karur District.

2.K.Varadharaj : Respondents in W.P.(MD)No.372/17

[R2 is impleaded vide order dated 23.01.2017]

1.The Local Planning Authority,
Rep. by its Secretary,
Trichy Region,
Trichy.

2.The Commissioner,
Karur Municipality,
Karur,
Karur District.



3.K.Varatharaj

: Respondents in W.P.(MD)No.986/17

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PRAYER in W.P.(MD)No.372 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 25.11.2016 and dispose of the same in accordance with law within the time frame.

PRAYER in W.P.(MD)No.986 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 and 2 to take action against the illegal construction of third respondent carried out at S.F.No.139/1A of Thanthoni Village, Karur Taluk, Karur District.

For Petitioner : Mr.V.Balaji
[In both Writ Petitions]
For Respondent No.1 : Mr.S.P.Maharajan
Special Government Pleader
[In W.P.(MD)No.986/17]
For Respondent : Mr.K.Balasubramani
Standing Counsel
[For R1 in W.P.(MD)No.372/17 &
For R2 in W.P.(MD)No.986/17]
For Respondent No.3 : Mr.Mr.K.Prabhakar
[In W.P.(MD)No.986/17]



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COMMON ORDER

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

According to the petitioner, the property in S.No.139 which was sub-dividd as S.No.139/1A of Thanthoni Village, Karur District, belongs to the petitioner and he is in possession of the same. When that being so, one Varadharajan attempted to interfere with the petitioner's possession and therefore, he filed a suit in O.S.No.58 of 2015, on the file of the learned Additional Sub Court, Karur and the said suit is pending. In the meantime, the said Varadharajan has constructed a commercial complex in the aforesaid property without obtaining any permission from the respondent Municipality. Therefore, the petitioner made a representation dated 25.11.2016, before the respondent Municipality to take action for removal of the unauthorised construction. Since the said representation remains unattended, the petitioner is constrained to file the present Writ Petitions.

2.The counter affidavit has been filed by the respondent Municipality, which states that on inspection it is found that the said Varadharajan has constructed a shopping complex in the aforesaid property without getting any building plan permission and without any window or ventilation. Hence, the respondent



issued a 'stop work notice' dated 20.02.2017, directing him to submit his explanation within seven [7] days. Therefore, it is submitted that the respondent Municipality has acted in accordance with the Rules.

3.The learned Counsel for the private respondent would submit that opportunity has not been granted to him to place all the materials before the authorities concerned.

4.Considering the facts and circumstance of the case, since *prima facie* case has been made out that the private respondent has constructed the commercial complex without obtaining any permission from the authorities concerned, we have no hesitation to direct the private respondent herein ie., one Varadharajan, to produce all the relevant records before the official respondents. Failing to initiate further action pursuant to the issuance of stop work notice is strictly a violation of law on the part of the respondent Municipality and the respondent Municipality is also responsible for such unauthorised constructions.

5.Therefore, we direct the respondent Municipality to proceed further in accordance with law for removal of the unauthorised construction within a period of twelve [12] weeks from the date of receipt of a copy of this order, after providing



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necessary opportunity to the parties concerned. It is needless to say that the private respondent shall submit all the relevant documents before the authorities concerned within a period of one [1] week.

6.Accordingly, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[D.K.K.,J.] & [R.V.,J.]
27.03.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To

1.The Secretary,
Local Planning Authority,
Trichy Region,
Trichy.

2.The Commissioner,
Karur Municipality,
Karur – 639 001.
Karur District.



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D.KRISHNAKUMAR, J.

and

R.VIJAYAKUMAR, J.

MR

COMMON ORDER MADE IN

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27.03.2024