



W.P(MD) Nos.19976 & 24837 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2024

CORAM:

**THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) Nos.19976 & 24837 of 2018
and**

W.M.P.(MD) Nos.17774, 17775, 21622 & 22511 of 2018

W.P.(MD) No.19976 of 2018:

Then Indiya Vellalar Uravin Murai Sangam
rep.by its President Selvaraj Pillai
S/o.Kathavarayan Pillai
Pon Muniyandi Temple Campus
Sammattipuram
Ponmeni,
Madurai-18

... Petitioner

Vs.

- 1.The Commissioner
Madurai Municipal Corporation
Anna Maligai
Dr.Ambedkar Road
Madurai-2
- 2.The Executive Engineer (Project)
Madurai Municipal Corporation
Anna Maligai
Dr.Ambetkar Road
Madurai-2



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3.The Executive Officer / Fit Person
Arulmigu Ayyanar
Pon.Muniyandi Swami Thirukovil
Sammattipuram
Ponmeni,
Madurai-18

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to impugned order issued by the second respondent vide his proceedings in Mathi1/A8/0349/2017 dated 04.09.2018 and quash the same as illegal.

For Petitioner : Mr.NA.Palaniyandi

For Respondents : Mr.S.Vinayak -for R1 & R2

Mr.S.Manohar – for R3

W.P.(MD) No.24837 of 2018:

O.Ukirapandian

... Petitioner

Vs.

1.The Corporation of Madurai
rep.by its Commissioner
Arignar Anna Maligai
Madurai-2



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2.The Member Secretary
Local Planning Authority
Corporation Building Complex
III Floor, Arignar Anna Maligai
Madurai-2

3.The Executive Engineer (Planning)
Corporation of Madurai
Arignar Anna Maligai
Madurai-2

4.Thenindiya Vellalar Uravin
Murai Sangam
rep.by its Chairman
Sri Iyyanar Sri Ponnuniyandi Kovil Valagam
Sampatipuram Main Road
Madurai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents No.1 to 3 to remove the unauthorized Construction made by the Respondent No.4 namely Thenindiya Vellalar Uravin Murai Sangam in Survey No.93 at Sempattipuram Main Road Ponmaeni Village Madurai South Madurai District as per the proceedings of the Respondent No3. in Mathi 1 / A8 / 0349 / 2017 dated 04/09/2018.



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For Petitioner : Mr.Vetrivel
for M/s.Lajapathi Roy Associates

For Respondents : Mr.P.Thilak Kumar – for R2
Government Pleader

Mr.S.Vinayak – for R1 & R3
Standing Counsel

Mrs.S.Muthalraj – for R4

COMMON ORDER

**[Order of the Court was made by
The Hon'ble CHIEF JUSTICE]**

W.P.(MD)No.24837 of 2018

The petitioner is alleging that respondent No.4 has erected unauthorized constructions in Survey No.93 at Sempattipuram Main Road, Ponmaeni Village, Madurai South. This petitioner in this Public Interest Litigation is seeking removal of the unauthorised constructions by respondent Nos.1 to 3. It is also stated that respondent No.3, by a communication dated 04.09.2018 has held that the construction of respondent No.4 is illegal and it is required to be removed. The communication is addressed to respondent No.1 and 2. Petitioner states



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that respondent No.1 and 2 have, notwithstanding this communication from respondent No.3, failed to remove the unauthorised constructions of respondent No.4.

2. Respondent No.4 had filed a Writ Petition being W.P.(MD)No.19976 of 2018 (said WP) before this Public Interest Litigation namely, W.P.(MD)No.24837 of 20018 was filed. Respondents in said WP are respondent No.1, 2 and 3 in W.P.(MD)No.24837 of 2018. Petitioner in the said WP is seeking a writ of Certiorari to quash the impugned order dated 4th September 2018 passed by respondent No.3.

3. The survey number in said WP filed by respondent No.4, i.e., Then India Vellalar Uravin Murai Sangam is T.S.Nos.38, 39, 40, 41 and 42. Sri.Vetrivel, counsel for petitioner states that the old Survey No.93 is now given new numbers as T.S.No.38, 41 and 42 and he relies upon a communication, dated 06.05.2014.

4. Sri.Vetrivel, counsel also states that in an earlier PIL filed by petitioner Ukirapandian, the Court was pleased to direct the removal of the encroachment existing in Survey No.93, Ponmeni Village under



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due process of law and it is based on this order, the order, dated 04.09.2018 came to be passed after following due process.

5. In the petition filed by respondent No.4, in said WP, there is no case made out as to why the order, dated 04.09.2018 was wrong. Counsel for respondent No.3 stated that order of 4th September 2018 has been passed after giving a personal hearing to petitioner and respondent No.2 to 4.

6. The grounds raised by respondent No.4 in said WP reads as under :

“a) The 2nd respondent ought to have perused the previous entries for our Constructions.

b) The impugned order passed by the 2nd Respondent is not in consonant with the earlier proceedings prescribed by the Madurai Municipal Corporation Act & Rules.

c) The impugned order is not sustainable in law for the violation of principles of Natural justice.

d) The authority ought to have completed their enquiry and issued a findings on 21.09.2017



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for the same cause of action based on the direction issued by this Hon'ble High Court in W.P.(MD) No. 9570 of 2017.”

Respondent No.4 has not even bothered to highlight which are those entries that makes its structure legal or which are the provisions of the Madurai Municipal Corporation Act or Rules that have not been followed or how the order violates principles of natural justice or why the authority ought to have completed the enquiry on 21.09.1997.

7. In addition to this, we are informed by counsel for respondent No.4 that the President through whom the petition was filed has died. But he does not know when he has died and how that could affect this petition because the petition has been filed by an Association.

8. In the circumstances, no case is made out by respondent No.4 to sustain said WP being W.P.(MD)No.19976 of 2018. The said petition therefore, is dismissed.

9. Consequently, W.P.(MD)No.24837 of 2018 is allowed. Respondent No.1 shall act on the basis of the communication/ impugned



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order, dated 04.09.2018 expeditiously. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[K.R.SHRIRAM., C.J.] [L.VICTORIA GOWRI, J.]

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NCC : Yes / No
Index : Yes / No

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