



W.P(MD)No.23830 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM :

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

**W.P(MD)No.23830 of 2024
and
WMP(MD)No.20176 of 2024**

Karpooram Chettiyar

... Petitioner

vs.

The Commissioner,
Sivagangai Municipality, Sivagangai.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No. 2832/2020/F1 dated 24.05.2024 on the file of the 1st respondent and quash the same and further directing the respondents to approve the Building Plan application dated 15.05.2024 submitted by the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondent : Mr.J.Lawrence
Standing Counsel

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

This is a classic case of difficulties that occur due to mechanization as well as sibling rivalry.



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2. The petitioner and his brother had inherited certain properties from their father and they have put up separate residential houses in the property.

When the petitioner wanted to construct over the first floor of the house, which is in his occupation, his brother rushed to this Court claiming that the petitioner is constructing without planning permission.

3. A Division Bench of this Court had issued a direction to the Commissioner, Sivagangai Municipality, requiring him to take action as per law. When the notice was issued, the petitioner came to this Court challenging the notice. The petitioner applied for planning permission under Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998. The application of the petitioner was returned stating that it has to be done only through online mode in view of the provisions of Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019.

4. The learned counsel appearing for the petitioner would submit that the petitioner is unable to make an application through online, since his brother, who also figures as the co-owner of the entire extent of the land, refuses to sign the application or expresses no objection for construction. These are very peculiar circumstances, which render the authorities in a hapless situation.



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5. It is conceded that the construction put up by the petitioner, though without planning permission, is within the permissible limits. The petitioner cannot be left high and dry because of the dispute between the him and his brother, more so, when the construction put up is within the allowable limits. We, therefore, direct the authorities to receive the application manually, process the same and grant permission, if the petitioner satisfies all the requirements of the Rules. Any coercive action shall be deferred till the application is disposed of.

6. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M, J.) (L.V.G, J.)
15.10.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

The Commissioner,
Sivagangai Municipality, Sivagangai.



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
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