

W.P.(MD)No.593 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2025

CORAM:

**THE HONOURABLE MRS. JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.593 of 2021

and

W.M.P.(MD)Nos.505 of 2021, 1464 and 1466 of 2022

1.M.Senthil

2.M.Jayashankari

... Petitioners

Vs.

1.The District Collector,
Tirunelveli District.

2.The Deputy Director of Town and
Country Planning,
Tirunelveli Region,
Tirunelveli.

3.The Commissioner,
Vikramasingapuram Municipality,
Vikramasingapuram,
Ambasamudram Taluk,
Tirunelveli.

4.N.Mariappan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari***, to call for the records relating to the proceedings, dated 30.11.2020, in Na.Ka.No.2797/2018/F1 of the 3rd respondent and to quash the same.



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For Petitioner : Mr.C.Sailendra Babu
For R1 and R2 : Mr.M.Sarangan
Additional Government Pleader
For R3 : Mr.H.Arumugam

ORDER

(Order of the Court was delivered by **S.SRIMATHY, J.**)

The writ petition is filed for issuance of a Writ of Certiorari, to quash the order, dated 30.11.2020, passed by the 3rd respondent.

2. The brief facts as stated in the affidavit are that the petitioners are joint owners of the property situated in Door Nos.234 and 235, Pasukidaivilai, North Car Street, Vikramasingapuram, Ambasamudram, Tirunelveli, by way of registered settlement deeds, dated 12.02.2016, wherein their father Mani has settled the property in favour of the petitioners. The said property was purchased by the father as early as 1989 along with construction with an approach road. The petitioners started putting up construction in the 1st and 2nd floors and had submitted application for approval in respect of the said additional constructions. The 4th respondent who is an individual alleged that the petitioners are putting up construction on his compound wall and the compound wall is developing cracks. Further the constructions are put up without approved plan. The 4th respondent



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filed W.P.(MD)No.22421 of 2018 for issuance of Writ of Mandamus directing the 2nd respondent to take action for the unauthorized construction. Based on the said writ petition, the 2nd respondent herein had issued notice, dated 23.07.2018, in the said notice the Commissioner of Vikramasingapuram has alleged that the construction is being put up without proper approval and called upon the petitioners to stop the construction, failing which the said construction would be demolished and removed.

3. The contention of the petitioners is that they have already filed an application for approval of the planning permission of the existing construction on 06.08.2018. Immediately after the notice is issued, they stopped the constructions. Based on the said application, the writ petition filed by the 4th respondent was disposed of on 08.01.2019 directing the 2nd respondent to consider the planning approval and pass orders. Further, the order states if there is any illegal construction, the 2nd respondent shall proceed as per law. Thereafter, again the 4th respondent filed a contempt petition in Cont.P.(MD)No.1883 of 2019. After the filing of contempt, the respondents rejected the application for approval stating that there is no approach road, there is no proper approval and there is no set-back for the said construction. Immediately, the petitioners submitted objections stating that their application was rejected without proper reasons and



without taking into consideration of the provisions under Tamil Nadu Combined Development and Building Rules, 2019. Thereafter, the petitioners have rectified and resubmitted the application to the 3rd respondent along with the site plan for approval. The 3rd respondent has forwarded the same to the Director of Town and Country Planning, Tirunelveli, vide proceedings, dated 27.06.2019 and the said application is still pending. Further, the petitioners had submitted the EDCR report but again the 1st respondent has returned the application on 24.07.2019 with a direction to resubmit along with payment of scrutiny charges and no objection from Joint Director, Agriculture and EDCR Report. However, pending the said application, again an order, dated 09.11.2020, was passed by the 3rd respondent stating that the petitioners were continuing with the illegal construction without approval. The petitioners had informed 3rd respondent that no further constructions are being put up. In spite of the same, the 3rd respondent has passed the final order for demolition on 30.11.2020 thereby confirmed the provisional order of demolition dated 09.11.2020. The said final order, dated 30.11.2020, is challenged in the present writ petition.

4. When the case was taken up for hearing, the learned Additional Government Pleader appearing for respondents 1 and 2 submitted that no application is pending before the Director of Town and Country Planning,



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Tirunelveli and relied on the letter, dated 14.02.2025. But the learned Counsel appearing for the petitioners submitted that in the month of March 2025, they had resubmitted the plan. The further contention of the petitioner is that the respondents without granting personal opportunity of hearing had passed the impugned order. The respondents ought to consider the application for plan approval based on the Tamil Nadu Combined Development and Building Rules, 2019.

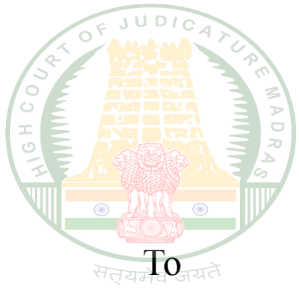
5. After hearing the rival submissions, this Court is of the considered opinion that the petitioner is entitled to an opportunity of personal hearing before passing the final orders. Therefore, the impugned order is quashed and the matter is remitted back to the 2nd respondent. The 2nd respondent shall consider the petitioners' case in accordance to law after granting personal hearing to the petitioners. The said exercise shall be completed within a period of 12 weeks from the date of receipt of the copy of the order.

6. With the above said observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] [S.S.Y., J.]
26.03.2025

Index : Yes / No

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