

W.P.(MD)No.14410 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **21.05.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**Writ Petition(MD)No.14410 of 2025
and
W.M.P(MD)No.10605 of 2025**

G.Vimala

..Petitioner

Vs

1.The Secretary to Government,
Housing and Urban Development,
St. George Fort,
Secretariat,
Chennai.

2.Valvacha Gostam Town Panchayat,
Rep. by its Executive Officer,
Kunnamparai, Kattathurai Post,
Kanyakumari District.

..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 in impugned proceedings Na.Ka.No.60/2021/A1 dated 12.05.2025 passed by the second respondent and quash the same.



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For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.A.Baskaran
Addl. Govt. Pleader (for R1)

ORDER

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

The petitioner seeks to quash the impugned proceedings Na.Ka.No. 60/2021/A1 dated 12.05.2025 passed by the second respondent, wherein the second respondent directed the petitioner to demolish and remove the construction of the second floor.

2. Mr.A.Baskaran, learned Additional Government Pleader, takes notice for the first respondent. By consent, this writ petition is taken up for final disposal at the admission stage itself. Since no adverse order is going to be passed as against the first respondent, notice to the second respondent is dispensed with.

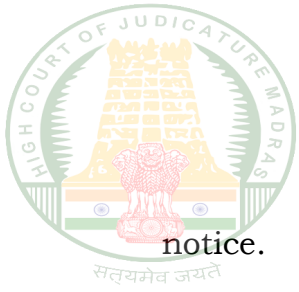
3. The petitioner purchased a property in S.No.225/2, Valvacha Gostam Village, on 17.08.2011. The said property is situated on the National Highway between Nagercoil and Thiruvananthapuram. The petitioner decided to construct a building. Hence, he approached the second respondent for building plan permission, and the second respondent



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has given building plan permission for the construction of a G+1 building in license No. 111, dated 24.02.2021, for a period of five years. The petitioner constructed a shop on the ground floor and a residential building on the first floor. Subsequently, he applied a revised building plan for the construction of the second floor to the respondent office. Due to the delay of the respondent office, he has constructed the second floor. Due to the vengeance and enmity, one Vasantha filed a petition in W.P.(MD)No.7421 of 2021 against the construction of the second floor. During the pendency of the writ petition, the petitioner filed an appeal before the first respondent under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971. However, the said appeal has been rejected by the first respondent based on the wrong instruction given by the second respondent. Thereafter, the second respondent issued the present impugned order directing the demolition and the removal of the second floor.

4. A perusal of the impugned order shows that it has been issued based on the order passed by this Court in W.P.(MD)No.7241 of 2021 dated 13.03.2024. However, without giving an opportunity of hearing to the petitioner, straightaway, the second respondent passed the impugned order directing the demolition and the removal of the construction of the second floor. Such an order cannot be passed without giving an opportunity of hearing. Therefore, the impugned order shall be treated as a show-cause



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notice. The petitioner is directed to submit his objection to the second respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of such objection, the second respondent shall consider the same and pass orders within a period of eight weeks thereafter. The petitioner shall also file an appeal under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971, for regularizing the building before the respondents. Till the order is passed in the objection and also in the appeal, the respondents shall not demolish the building.

5. With the above directions, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

[S.S.Y., J.]

[R.V., J.]

skn

21.05.2025

NCC : Yes/No

Index : Yes / No

Internet : Yes



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