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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2025

CORAM
THE HONOURABLE DR.JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Writ Petition No.23797 of 2025
and
W.M.P(MD)No.18704 of 2025

M.Kanthimathinathan

... Petitioner

..Vs..

1.The Directorate of Town and Country Planning,
2nd , 3rd and 4th Floor,
C and E Market Road, Koyambedu,
Chennai-600 107.

2.The Assistant Director of Town and Country Planning,
District Town and Country Planning Office,
106, J-37, Millarpuram, 2nd Street,
Thoothukudi-628 008.

3.The Commissioner,
Thoothukudi Corporation,
113, Palayamkottai Road,
Thoothukudi-628 002.

4.The Executive Engineer,
Thoothukudi Corporation,
West Zone, Millerpuram,
Thoothukudi-628 008.

5.M.Devika

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent in Na.Ka.No.C5/0232/2025 dated 26.08.2025 quash the same, and consequently, permit the petitioner to rectify the defects pointed out by the third respondent to avoid the demolition as per the order of this Court in W.P(MD)No.3395 of 2025 dated 05.02.2025.

For Petitioner : Ms.S.Radhakrishnan
For R3 & R4 : Mr.N.Anandhakumar
Standing Counsel
For R1 and R2 : Mr.D.Sadiq Raja
Additional Govt. Pleader

ORDER
(Order of the Court was made by C.KUMARAPPAN,J.)

This Writ Petition has been filed for the issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the third respondent in Na.Ka.No.C5/0232/2025 dated 26.08.2025 quash the same, and consequently, permit the petitioner to rectify the defects pointed out by the third respondent to avoid the demolition as per the order of this Court in W.P(MD)No.3395 of 2025 dated 05.02.2025.

2.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first and



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second respondents and the learned Standing Counsel appearing for the third and fourth respondents.

3.The learned counsel for the petitioner would submit that the building at Door No.45, 3rd Mile Puthukudi II, Thoothukudi-628 008, is not an unauthorized construction, but it is an existing old construction. Further, due to flood during 2023 the building got collapsed, therefore he has repaired the building by laying AC sheet roof with the support of hollow block wall. It is the further submission of the petitioner that notwithstanding his above stand, he is willing to submit an application seeking approval of plan.

4.The main grievance of the petitioner is that, vide order dated 05.02.2025, though this Court in W.P(MD)No.3395 of 2025 has directed the third respondent to give an opportunity to the petitioner to rectify the defects, the third respondent did not give such opportunity to the petitioner to rectify the defects. Hence, prays to quash the demolition order dated 26.02.2025, which is impugned in the present writ petition.



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5.Per contra, the said contention was totally objected by the contesting respondent qua the third respondent Thoothukudi Corporation and would submit that the petitioner was given notice dated 12.12.2024, and again a final notice was issued on 21.01.2025. In pursuance of the order dated 05.02.2025 passed in W.P(MD)No.3395 of 2025 yet another notice was also issued to the petitioner on 03.03.2025, which was returned. Again another notice was issued upon the petitioner on 01.04.2025, for which, the petitioner has given a reply on 10.04.2025. In the mean while, the fifth respondent herein, who is none other than the sibling of the petitioner, had filed a writ petition in W.P.(MD)No.3395 of 2025, wherein this Court had directed to initiate action for removal of the unauthorized construction. Therefore, the petitioner has again served with notice dated 03.06.2025, for which, the petitioner has sent reply on 12.06.2025. After considering the petitioner's explanation, demolition notice was issued on 20.08.2025. Once again the petitioner was issued with impugned notice dated 26.08.2024 for removal of the unauthorized construction. Hence, the learned Standing Counsel would submit that the petitioner was served with all due notices. Therefore, there cannot be any grievance for the petitioner against the impugned order.

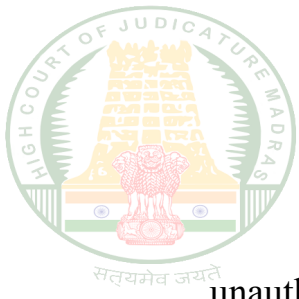


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6. We have given our anxious consideration to either side submissions and also perused the materials available on record.

7. While looking at the trajectory of the litigation, it appears that the petitioner's sister viz., Devika has filed a writ petition in W.P(MD)No.29973 of 2024 to consider the representation dated 03.09.2024, wherein she has raised her grievance against the unauthorized construction of the petitioner. In pursuance of the order of this Court, the petitioner was served with notice. Thereafter, challenging the said notice, the petitioner preferred a writ petition in W.P(MD)No. 3395 of 2025 wherein this Court on 05.02.2025 has directed the respondents to consider the petitioner's representation and also directed the respondents to identify the defects so as to avoid demolition. Now the main grievance of the petitioner is that in spite of such an order passed by this Court on 05.02.2025, the respondent did not identify the defects and informed to the petitioner.

8. At this juncture, the learned counsel appearing for the respondent would submit that the deviation is not a minor deviation, and that since December 2024, the petitioner was informed that the construction is an



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unauthorized construction. Therefore, the question of indicating the deviation has already been mentioned in their respective notices since December 2024. Further on 12.12.2024, the respondents have personally inspected the disputed building and found out the extent of the construction which has been made by the petitioner in violation to the building rules. Therefore, the sum and substance of the respondent's contention is that the petitioner had been consistently informed that his entire construction is unauthorized. Though, the petitioner would contend that the building has been existing for more than several years, to substantiate such contention, he has not submitted any document.

9. When admittedly the building is an unauthorized construction, it is the bounden duty of the third respondent to take action in accordance with law. It is pertinent to mention here that this Court vide order dated 25.08.2025 has directed the respondent to take action in accordance with law. As we mentioned supra, the respondents had been served with notice consistently and admittedly the construction is an unauthorized construction. Accordingly, this Court absolutely does not find any ground to interfere with the impugned order dated 26.08.2025.



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10. In the result, the Writ Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [C.K.J.]
02.09.2025

Index::Yes/No

Ncc:Yes/No

Ns

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8

DR.ANITA SUMANTH,J.
AND
C.KUMARAPPAN,J.
Ns

Order made in
W.P(MD)No.23797 of 2025

02.09.2025