

In the High Court of Judicature at Madras

Dated: 23.12.2014

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and
The Honourable Mr. Justice M.SATHYANARAYANAN

Writ Petition No. 34245 of 2014
and M.P.No.1 of 2014

P. Chinnasamy ... Petitioner

vs.

The Commissioner/Member Secretary
Gudalur Municipality
Gudalur, The Nilgiris 643212. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of demolition dated 12.11.2014 bearing Letter No.VAC30/2014/TPH of the respondent and quash the same.

For Petitioner : Mr. A.U. Ilango

O R D E R

(Made by The Hon'ble The Chief Justice)

The petitioner seeks to assail the notice issued under Section 56 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, as Locking and Sealing and Demolition Notice, dated 12.11.2014.

2. It is the case of the petitioner that he purchased a 200 years old building vide a registered sale deed dated 21.11.2003 and thus, it was an earlier existing structure. It is also his submission that survey number is not correctly given and that the provisions of the said Act will not apply, but, of the Tamil Nadu District Municipalities Act.

3. We are of the view that the petition is really based on falsehood and half truths. The sale deed of the petitioner states that

what was purchased was a land and ground floor structure. The ground floor structure could not itself have grown into first and second floor structure. Undisputedly, no planning permission has been obtained and the payment of house tax would not confer legality on the structure. Thus, the allegation that the whole structure was more than 200 years old itself is fallacious.

4. The petitioner also states that he has made slight modifications without changing the original structure as set out in paragraph 3. The slight modifications have also not been set out. There is no photograph of the original structure purchased or of the modified structure.

5. In exercise of jurisdiction under Article 226 of the Constitution of India, a proper declaration and propriety which the party approaches the Court is the most important aspect. This is completely absent in the present case. As also the fact that the petitioner, in view of what we have set out, had definitely carried out the construction without sanction and that too of two storeys illegally. As to the extent of the ground floor, i.e. whether it is as per what was purchased and/or whether it was extended later has also not been set out. The sale deed states that the ground floor had only a tin sheet roof.

6. There is no other defect in the notice as the survey number only mentions the part of the number, where the property is located.

7. We, thus, dismiss the writ petition as completely merit less and based on falsehood. No costs. Consequently, M.P.No.1 of 2014 is also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ATR

Copies to;

The Commissioner/Member Secretary
Gudalur Municipality
Gudalur, The Nilgiris 643212.

+1cc to Mr.A.U.Ilango, Advocate Sr 63513
+1cc to Govt. Pleader SR 63737

CTK (CO)
km/12.1.2015

W.P. No. 34245 of 2014 and M.P.No.1 of 2014