

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.242 of 2015
and
M.P.No.1 of 2015

Arulmighu Kapaleeswarar Temple,
rep by its Deputy Commissioner,
Executive Officer, D.Kaveri,
Joint Commissioner (Addl. Charge),
T.N.Hindu Religious and Charitable Endowments Board,
Mylapore,
Chennai-600 004. Appellant

Vs.

1. Corporation of Chennai,
represented by its Commissioner,
Rippon Buildings,
Chennai-600 003.
2. Executive Engineer,
Corporation of Chennai,
Town Planning Section-Works Department,
Rippon Buildings,
Chennai-600 003.
3. M/s.Radha Silk Emporium,
rep by its Partner,
No.1, Sannadhi Street,
Mylapore, Chennai-600 004. .. Respondents

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 29.01.2015 made in W.P.No.31491 of 2014.

Writ Petition praying to issue a Writ of Mandamus directing the first and second respondents to take such action as is appropriate under the law to forbear the third respondent from, in any manner, altering the structure of the building at No.15 Kapaleeswarar Koil Sannathi Street and East Mada Street, Mylapore, Chennai - 600 004.

For Appellant : Mr.P.Dinesh Kumar

For Respondents : Mrs.Karthika Ashok for RR1 and 2
Mr.R.Thiyagarajan, SC
for M/s.V.G.Sureshkumar for R-3

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The appellant / writ petitioner preferred the instant writ petition seeking for a writ of mandamus against the third respondent, i.e., M/s.Radha Silk Emporium to forbear them from in any manner altering the structure of the building at No.15, Kapaleeswarar Koil Sannathi Street and East Mada Street, Mylapore, Chennai and a further direction to the first and second respondents Corporation of Chennai to take such action as is appropriate to restrain the third respondent from altering the structure of the building at the said place in any manner.

2 The petitioner has primarily sought a writ of mandamus against the private party. The incidental prayer was against the first and second respondents also to take action as a consequence after the writ of mandamus is issued by this Court against the third respondent. The relief clause reads as under :

"For these reasons, it is respectfully prayed that this Hon'ble Court may be pleased to grant a Writ of Mandamus or any other writ, order or direction in the nature of a Writ of Mandamus directing the 3rd Respondent to forbear from, in any manner, altering the structure of the building at No.15 Kapaleeswarar Koil Sannathi Street & East Mada Street, Mylapore, Chennai-600 004, and to consequently also direct the 1st and 2nd Respondents to take such action as is appropriate under the law to forbear the 3rd Respondent from, in any manner, altering the structure of the building at No.15 Kapaleeswarar Koil Sannathi Street & East Mada Street, Mylapore, Chennai -600 004."

3 Without going into the merits of the case, the preliminary question that arises in this case is whether a writ of mandamus can be granted against a private person, who by no stretch, can be held as State, as defined under Article 12 of the Constitution of India. The consequential relief as sought for against the first and second respondents is manifestly dependent on the first direction sought against the private party. It appears that the petitioner is taking recourse to writ jurisdiction in order to settle the dispute, which falls within the domain of private law.

4 Examining all the facts of the case, the learned Single Judge dismissed the writ petition with an observation that the representation dated 21.1.2015 filed before the first and second

respondents may be considered on merit. Thus, there is no merit in the appeal. The writ appeal is, accordingly, dismissed. However, there shall not be a bar for the appellant to pursue his representation before the first and second respondents, as observed by the learned Single Judge. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

vvk

To

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
- 2.The Executive Engineer,
Corporation of Chennai,
Town Planning Section-Works Department,
Rippon Buildings,
Chennai-600 003.

1 cc to Mr.A.Nagarajan , Advocate Sr.No.32309

1 cc to M/s.V.G.Sureshkumar , Advocate Sr.No.32111

W.A.No.242 of 2015

sai(co)

pmk.13.7.2015



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