

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.31125 of 2014 and M.P. Nos.1-3 of 2014

S. Sugumar

... Petitioner

vs.

1. The Municipal Commissioner
Thiruvannamalai municipality
Sannathi Street
Thiruvannamalai

2. The Superintending Engineer
Tamil Nadu Electricity Board
Thiruvannamalai

3. Dr. N. Inbanesan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to take appropriate action against the third respondent in respect of the illegal construction being put up by him at Door No.22, Big Street, Thiruvannamalai Town.

For petitioner : Mr. G. Derrick Sam

For R1 : Mr. N. Umapathy
for M/s. S. Eraskine Leo

For R2 : Mr. M. Varun Kumar

For R3 : Mr. Kovi Ganesan

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI)

This writ petition is filed seeking a writ of mandamus directing the first respondent to take appropriate action against the third respondent qua the illegal construction being put up by him at Door No.22, Big Street, Thiruvannamalai Town.

2. The gist of the petitioner's case, as culled out from his affidavit, is that he is the owner of a portion of the aforesaid property. His siblings, without his knowledge, had sold their respective share to the third respondent, who, after having obtained approval for construction of residential building in the property, in deviation of the same, had started to construct a multi-speciality hospital, by blocking the common passage, which is used by him and his family members. Thus, this writ petition, for the aforestated relief.

3. Pursuant to the notice ordered by this Court 28.11.2014, the learned counsel for the first respondent Municipality, relying on the counter affidavit dated 12.01.2015, filed by the Municipal Commissioner, submits that on inspection, it was found that there is deviation in the construction made by the third respondent. Accordingly, a notice under Section 205(1)(2) and 216(1)(c)(ii) and (iii) of the Tamil Nadu District Municipalities Act, 1920 (for short "the Act") was issued on 20.05.2014 to demolish the superstructure and to remove the deviation which is as under:

"5 ¼ ft. front open should be left by the third respondent in Ground, 1st and 2nd floor, but, he had left front open only in Ground floor constructed balcony in other floors."

A final notice was also issued under Section 205(3) of the Act on 11.07.2014 and thereafter, the first respondent had filed a petition before the Judicial Magistrate No.1, Thiruvannamalai District in S.T.C. No.4597 of 2014, seeking an order to demolish the said deviated superstructure put up by the third respondent and the same is pending consideration.

4. What is the stage of the case in S.T.C. No.4597 of 2014, as on date, is not known. If no order has been passed in the aforesaid case, the first respondent is directed to take steps to expedite the proceedings in S.T.C. No.4597 of 2014 pending before the Judicial Magistrate No.1, Thiruvannamalai District.

5. In view of the foregoing, no further order is necessary, at this stage and the writ petition stands disposed of with the aforesaid direction. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

CAD

To

1. The Municipal Commissioner
Thiruvannamalai municipality
Sannathi Street
Thiruvannamalai
2. The Superintending Engineer
Tamil Nadu Electricity Board
Thiruvannamalai

+1cc to Mr.S.Eriskine Leo, Advocate, S.R.No.10605
+1cc to Mr.J.Lenin Hari Radhakrishnan, Advocate, S.R.No.11198
+1cc to Mr.M.Varun Kumar, Advocate, S.R.No.10918
+1cc to Mr.Kovi Ganesan, Advocate, S.R.No.10772

सत्यमेव जयते

W.P. No.31125 of 2014

VSN(CO)
CA(05/03/2015)

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