

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-03-2015

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI  
AND  
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

WRIT PETITION No.33417 of 2014

and

M.P.No.1 of 2014

Nallasamy

.. Petitioner

vs

1. The District Collector,  
Nagapattinam District.

2. The Commissioner,  
Mayilduthurai Municipality,  
Mayiladuthurai 609 001,  
Nagapattinam District.

3. Nirmala

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the second respondent to take action against unauthorised construction of 3<sup>rd</sup> respondent in Door No.24, Mudaliar Street, Mayiladuthurai Town in pursuance of his proceedings Na.Ka.No.1714/2013/F1, dated 29.11.2013.

For Petitioner : Mr. S. Sounthar

For Respondents : Mr. P.S.Sivashanmugasundaram  
Spl. Govt. Pleader - R1& R2  
Mr. A. Muthukumar - R3

ORDER

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

This is a classical case of bureaucratic indolence. As submitted by the second respondent, a notice was issued under Section 216(1)(2) and 317 of the Tamil Nadu District Municipalities Act, 1920 (for short "Municipalities Act") vide R.O.C.No.10834/2011 dated 25.08.2011 calling upon the third respondent to remove the unauthorised construction. Thereafter, after a period of 16 months, a confirm notice as required was issued under Section 216(3) of the Municipalities Act to the third respondent. Again, one confirm notice was issued vide R.O.C.No.1714/2013 under Section 216(3) of the

Municipalities Act on 2.4.2013.

2. Seemingly, the officers after issuing the aforestated notices closed the file without verifying whether the alleged unauthorised construction put up by the third respondent was removed or not. It is a matter of unholy alliance between the second respondent and the third respondent. The petitioner, seeing the aforestated lackadaisical attitude of the authorities, particularly the Commissioner, second respondent, came up with the instant writ petition, seeking a direction to the second respondent to take action against the unauthorised construction of the third respondent in Door No.24, Mudaliar Street, Mayiladuthurai Town pursuant to the notice dated 29.11.2013.

3. Pursuant to the notice dated 7.1.2015 ordered by this court, the second respondent woke up from a long slumber and issued one more notice under provisions of Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 on 20.3.2015 for locking and sealing of the building. It is submitted that consequential action shall be taken within the prescribed statutory period if unauthorised construction/deviation is not removed.

4. The learned counsel appearing for the third respondent also submits that in the meantime, the third respondent had also taken steps pending the instant writ petition for seeking planning permission. We are not inclined to make any observation in this respect as the third respondent was noticed from 25.8.2011 regularly for removal of the unauthorised structure. However, he has shown full disregard and disrespect to the law.

5. In the conspectus of the above stated facts, normally, the authorities be directed to initiate action against the erring officials, however, we are not inclined to make any recommendation, at this stage for the reason that the second respondent present in court submits and undertakes that there will not be any lapse like this in future on his part.

6. As a sequel, the second respondent is directed to take consequential action on merits and in accordance with law, within the statutory period prescribed under the provisions of the Town and Country Planning Act.

7. The writ petition stands disposed of with the above direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,  
Nagapattinam District.

2. The Commissioner,  
Mayilduthurai Municipality,  
Mayiladuthurai 609 001,  
Nagapattinam District.

1 cc to Mr. S.Sounthar, Advocate, SR.No.17242  
1 cc to Mr. A.Muthukumar, Advocate, SR.No.17087  
1 cc to Government Pleader, Sr.No17022

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rv(co)  
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