

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-06-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.16534 of 2015

and

M.P.Nos.1 and of 2015

Mohammed Zackaria

...Petitioner

vs

1. Muthupettai Town Panchayat
Rep. By its Executive Officer
Muthupettai

2. Azeez Ammal @ Ayesha Ammal

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the first respondent dated 2.9.2014, in Rc.632/2013/A1 and quashing the same and consequently, directing the first respondent to grant permission for construction to the petitioner.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.N.Srinivasan for R1

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner claims that the properties admeasuring to an extent of 50 ares and 70 ares in Survey Nos.262/138 and 262/139 respectively, at Thuraikadu Taluk, Muthupettai, Thiruthuraipoondi, absolutely belong to him by virtue of a deed of Hiba (gift) dated 31.1.2013, from his mother and claims to be in possession and enjoyment of the same. The petitioner would state that he made an application to the first respondent seeking permission to put up a superstructure, and vide proceedings dated 2.9.2014, the first respondent informed the petitioner that he cannot grant permission for construction as the suit in O.S.No.86/2013, filed by one Azez

Ammal @ Ayesha Ammal viz. the second respondent herein, against the petitioner herein on the file of the Court of District Munsif at Thiruthuraipoondi, is pending. The petitioner, aggrieved by the said communication, has filed this writ petition.

3.Mr.N.A.Nissar Ahmed, learned Counsel appearing for the petitioner, has invited the attention of this Court to the order dated 10.10.2013, passed by the Court of District Munsif, Thiruthuraipoondi, in I.A.No.313/2013 in O.S.No.86/2013, and would submit that even as per the order, the petitioner herein, who is arrayed as respondent, was prohibited from constructing without permission or approval of the Town Panchayat and in terms of the said order only, he has approached the first respondent seeking necessary permission; but, without understanding the scope and purport of the said order, the permission sought for by the petitioner, has been unjustly denied and prays for interference.

4.The Court heard the submissions of Mr.N.Srinivasan, learned Counsel, who accepted notice for the first respondent, also.

5.As rightly contended by the learned Counsel appearing for the petitioner, there is no absolute prohibition restraining the petitioner, who is arrayed as respondent in the said Interlocutory Application, from proceeding with the construction; but, the order has been passed with a rider that he cannot construct without permission or approval of the Town Panchayat and accordingly, the petitioner has approached the first respondent seeking necessary permission.

6.In the light of the above, the writ petition is partly allowed and the impugned order dated 2.9.2014, passed by the first respondent, is set aside and the first respondent is directed to consider the petitioner's application/representation dated 27.8.2014, after putting on notice, the second respondent viz. Azeez Ammal @ Ayesha Ammal, and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the second respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nsv

To:

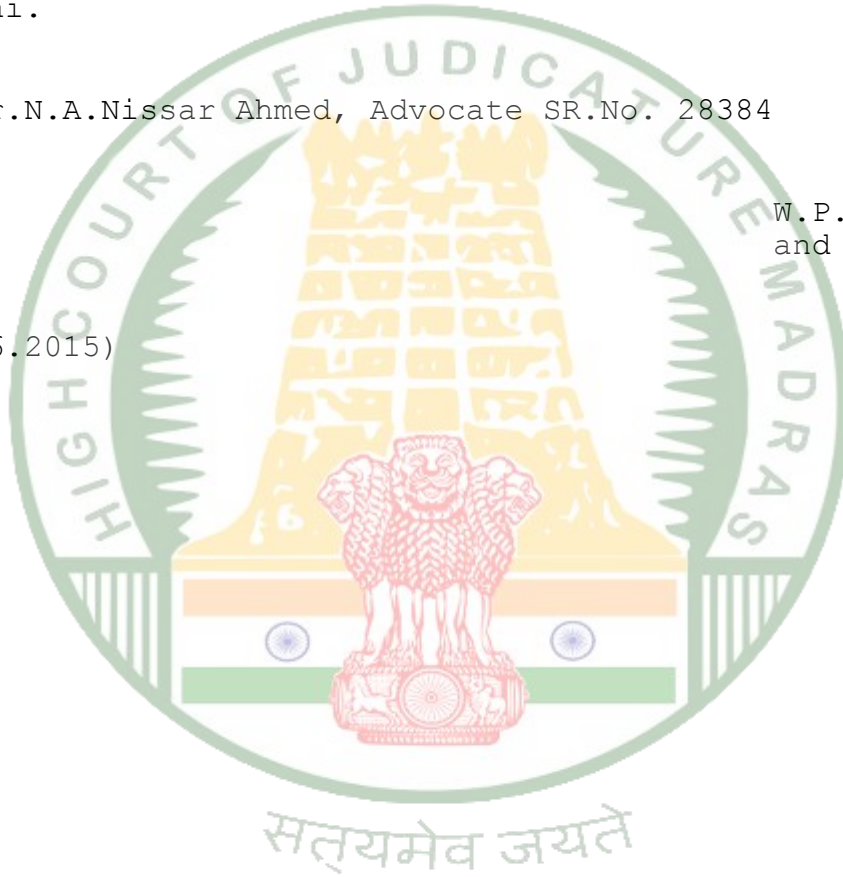
1. The Executive Officer
Muthupettai Town Panchayat
Rep. By its Executive Officer
Muthupettai

2. Azeez Ammal @ Ayesha Ammal
W/o. Abdul Rahim,
10, Thennaimarakkadai Theru,
Muthupettai.

1 CC to Mr.N.A.Nissar Ahmed, Advocate SR.No. 28384

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and M.P.No.1 of 2015

UG (CO)
PSI (22.06.2015)



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