

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/7/2015

C O R A M

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

W.P. No.20548 of 2015

N. Ramalingam

...Petitioner

Vs

1. The Commissioner
Nellikuppam Municipality
Nellikuppam 607 105
Cuddalore District.

2. R. Devanathan

3. Mr.D.Madhialagan

4. M. Rajinishwer

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent to stop the illegal construction and to remove the illegal construction already done at No.134, Main Road, Vaidapakkam, Nellikuppam 607 105, Cuddalore District and take appropriate action on the respondents 2 to 4 as sought for in the petitioner's representation dated 23/6/2015 on the file of the first respondent immediately.

For petitioner

:

Mr.P.Selvaraj

For respondents

:

Mr.N.Subramani for R.1

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O R D E R

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

Mr.N.Subramani, learned counsel takes notice on behalf of the first respondent. With the consent of the learned counsel for the petitioner and the first respondent, the writ petition is taken up for final disposal, at the admission stage itself.

2. The petitioner, stated to be a resident of Vaidapakkam, Nellikuppam, Cuddalore District, has filed this petition, seeking a direction to the first respondent to take action on his representation dated 23/6/2015 made to the first respondent.

3. According to the learned counsel for the petitioner, the respondents 2 to 4 are constructing a building, without proper approval, unauthorisedly and causing nuisance and disturbance to the peaceful living of the petitioner. The petitioner is an old man of 80 years. The petitioner had approached the first respondent personally and made a request to stop the construction in question. However, no action has been taken till date, making him approach this Court by way of the present writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

5. On consideration of the submission made by the learned counsel for the petitioner and also on perusal of the documents available on record, it is seen that the main grievance of the petitioner is that the compound wall being constructed by the respondents 2 to 4 is blocking the air and light to his house. If this is a question of air and light which comes under the definition of easementary right, the petitioner has to take recourse to the competent Civil Court. However, the question of unauthorised construction comes within the domain of the Municipality.

6. In that view of the matter, we direct the first respondent to consider the afore-stated representation on its own merit and after affording proper opportunity of hearing to the respondents 2, 3 and 4, take consequential action at the earliest, to avoid further disturbance/nuisance to the neighbouring people including the petitioner. Such an exercise shall be completed within a period of four weeks from the date of receipt of the copy of this order.

7. This writ petition stands disposed of accordingly. No costs. Connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

mvs.

To

The Commissioner
Nellikuppam Municipality
Nellikuppam 607 105
Cuddalore District.

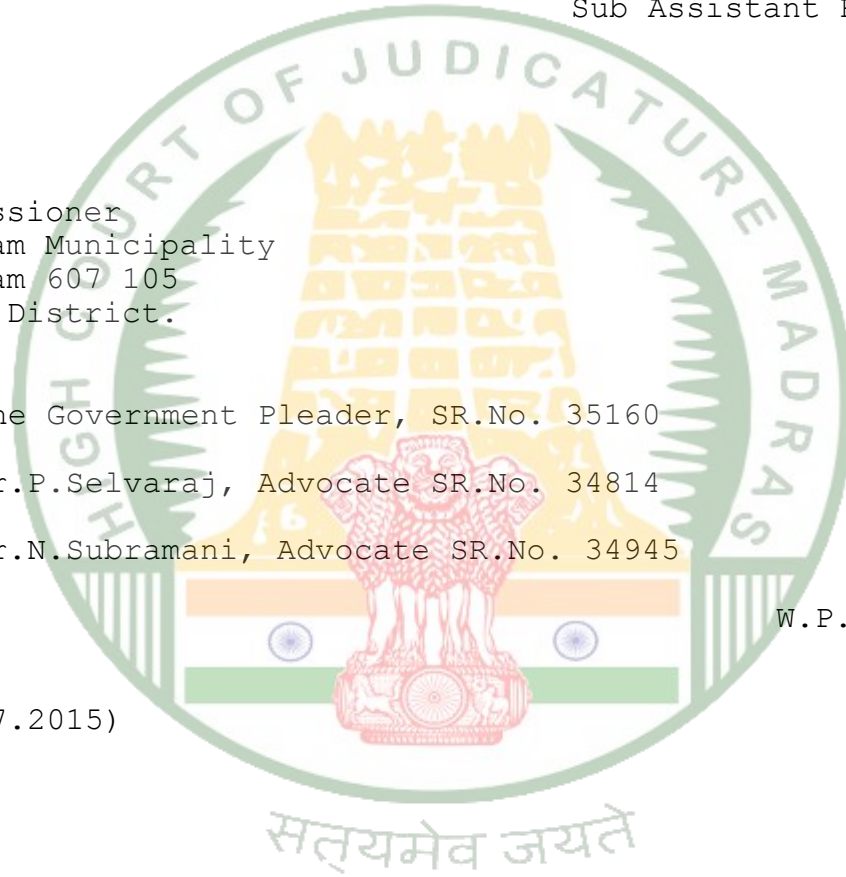
1 CC to the Government Pleader, SR.No. 35160

1 CC to Mr.P.Selvaraj, Advocate SR.No. 34814

1 CC to Mr.N.Subramani, Advocate SR.No. 34945

W.P.No.20548 of 2015

TEJ (CO)
PSI (24.07.2015)



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