

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2015

CORAM:

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

W.P. No.22683 of 2015 and M.P. No.1 of 2015

Madurai Soft Drinks (P) Ltd.
represented by Authorised Signatory
Ramkumar Giri (aged about 55 years)
No.19, Sasthri Road
Ram Nagar
Coimbatore 641 009

Petitioner

vs.

1 The Commissioner
Coimbatore Corporation
Coimbatore

2 The Secretary
Aavarampalayam Sarvodaya Sangam
No.129 Appusamy Road
Coimbatore

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to take action on the petitioner's complaint dated 03.07.2015.

For petitioner: Mr. B. Nedunchezhiyan

For R1 : Mr. K. Magesh

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ORDER

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

Mr. K. Magesh, learned counsel, accepts notice for the first respondent. It is not necessary to issue notice to the second respondent, inasmuch as this is only a case of consideration of the petitioner's complaint dated 3rd July, 2015 and no action can be taken without affording an opportunity of hearing to the second respondent. Thus, with the consent of the learned counsel for the petitioner and

also the learned counsel for the first respondent, the writ petition is taken up for final disposal, at the admission stage itself, without issuing notice to the second respondent.

2 The case of the petitioner is that he is the owner of the property bearing Door No.128, Appusamy Road, Red Fields, Coimbatore and he is in possession and enjoyment of the same. The second respondent association, who is his neighbour, is putting up construction sans approved building plan and in violation of the Coimbatore Corporation Building Rules, as per which, there should be a gap of 5.75 ft. between two buildings. On account of the unauthorised construction made by the second respondent association without leaving the required open space, his building is prone to cracks. Hence, he had brought the violation on the part of the second respondent association to the notice of the first respondent by way of a complaint dated 3rd July, 2015. Since no action has been taken by the first respondent on his aforesaid complaint, he has preferred the instant writ petition seeking a mandamus to the first respondent to take action on his aforesaid complaint.

3 In view of the limited scope of relief sought by the petitioner, without going into the merits of the case, we direct the first respondent to examine the petitioner's complaint dated 3rd July 2015, advertng to each and every averment made therein and after proper verification and survey of the property in question, take necessary steps, as required under the provisions of law. Needless to state no coercive action as against the second respondent shall be taken, without affording an opportunity of hearing to the second respondent. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

4 The writ petition stands disposed of with the above direction and observation. Costs made easy. Connected Miscellaneous Petition is closed.

सत्यमेव जयते

-Sd/-

Assistant Registrar

//True copy//

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Sub Assistant Registrar

To

The Commissioner
Coimbatore Corporation
Coimbatore.

+ 1 cc to Mr.B.Nedunchezhiyan, Advocate (SR.38896)
+ 1 cc to Government pleader (SR.38860)

W.P. No.22683 of 2015

GJ(CO)
cp 11.08.2015



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