

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P.No.24942 of 2015

AND

W.P.No.36798 of 2015
and M.P.Nos.1,2 of 2015
in
W.P.No.36798 of 2015

W.P.24942 of 2015

Udhagai Puranagar Anaithu Vanigar Nala Sangam
rep. by its President
K.Mohammed Farook

... Petitioner in WP.24942/15

Vs

1.The District Collector,
Collectorate, Commissioner's Road,
Udhagamandalam, Nilgiris District.

2.The Chief Engineer,
Highways Department,
Udhagamandalam, Nilgiris Distirct.

3.The Municipal Commissioner,
Udhagamandalam Municipality,
Udhagamandalam.

4.Samson @ Saba

Thanga Tharagai Magalir Suya Uthavi Kuzhu,
Golf links Road, Finger post,
Ooty.

... Respondents in WP.24942/15

W.P.36798 of 2015

M/s.Thangatharagai Women Self-help Group,
Rep by its President S.Nazareth,
Golf Club Road, Finger Post, Udhagai,
The Nilgris District.

... Petitioner in WP.36798/15

Vs

The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam,
The Nilgiris District

... Respondent in WP.36798/15

Prayer in WP.24942/15: Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of mandamus to direct the respondents 1 to 3 to remove the shop put up by the 4th respondent illegally in the main entrance of Udhagamandalam namely in the centre of Finger Post at Gold Flings Road, Udhagamandalam by considering the representation of the petitioner dated 22.01.2015.

Prayer in WP.36798/15: Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorari to call for the records of the respondent in connection with the impugned order passed by him in Na.Ka.No./0905/2015/F1 dated 20.10.2015 and quash the same.

For Petitioner : Mr.J.Franklin
in WP.24942/15

For Respondents
in WP.24942/15 : Mr.N.Sakthivel, GA for RR1, RR2
Mr.P.Srinivas for RR3
Mr.P.Venkataraman for RR4

For Petitioner : Mr.P.Venkataraman
in WP.36798/15

For Respondent : Mr.P.Srinivas
in WP.36798/15

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.,)

With the consent of the learned counsel for the parties, these writ petitions are taken up for final disposal.

2. While W.P. No.24942 of 2015 is filed seeking a direction to the respondents 1 to 3 to remove the shop put up by the 4th respondent illegally in the main entrance of Udhagamandalam viz., in the centre of Finger Post at Gold Flings Road, Udhagamandalam, by considering the petitioner's representation dated 22.01.2015, W.P.No.36798 of 2015 is filed assailing the order dated 20 October 2015 passed by the respondent, whereby and whereunder, the petitioner has been asked to remove the unauthorised bunk shop put up by it.

3. Since the facts involved herein are intertwined, both the writ petitions are taken up together for consideration and decision.

4. Pursuant to the observations made by this Court on 04 November 2015, the Udhagamandalam Municipality filed affidavit through one Sri.Sardhar, S/o.Abdullah 16 November 2015 stating that the Municipality tried to serve a notice on the encroacher/the petitioner in W.P. No.36798 of 2015, on 20 October 2015. However, they declined to accept the notice and tried to evade service of notice. Accordingly, notice was served by affixture on 26 October 2015. Noticing the aforesaid facts, on 04.11.2015, the respondent Municipality was directed to take action and submit a report. The third respondent has filed the action taken report on 17.11.2015 stating as under :

"4. On 12.11.2015, though the staff of the Municipality reached the place along with the Police personnel, it was found that 3 women stating to be members of a Self Help Group who were running the shop, remained inside the shop and did not come out and threatened that they commit Self Immolation if the shop was removed.

5. It is submitted that they also claimed to have moved this Honourable Court for appropriate protection from being evicted."

5. In the meantime, the other writ petition being W.P. No. 36798 of 2015 was filed questioning the legality and validity of the notice dated 28 October 2015.

6. According to the learned counsel for the petitioner in WP.No.36798 of 2015, only three days time was given to the petitioner to vacate the shop in question, without affording a reasonable opportunity of hearing to put forth its case. Thus, some more time may be granted to the petitioner to submit its reply/representation.

7. Thus, we grant two weeks time to the petitioner in WP.No.36798 of 2015 to put forth its case and make a representation, if any. Thereafter, the authorities are at liberty to take consequential action, if not satisfied with the justification given by the petitioner. W.P. No.36798 of 2015 stands disposed of accordingly.

8. In view of the disposal of W.P. No.36798 of 2015 in the above terms, there is no need for further adjudication in W.P. No.24942 of 2015. As such, W.P. No.24942 of 2015 stands closed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ra.

To

1.The District Collector,
Collectorate, Commissioner's Road,
Udhagamandalam, Nilgiris District.

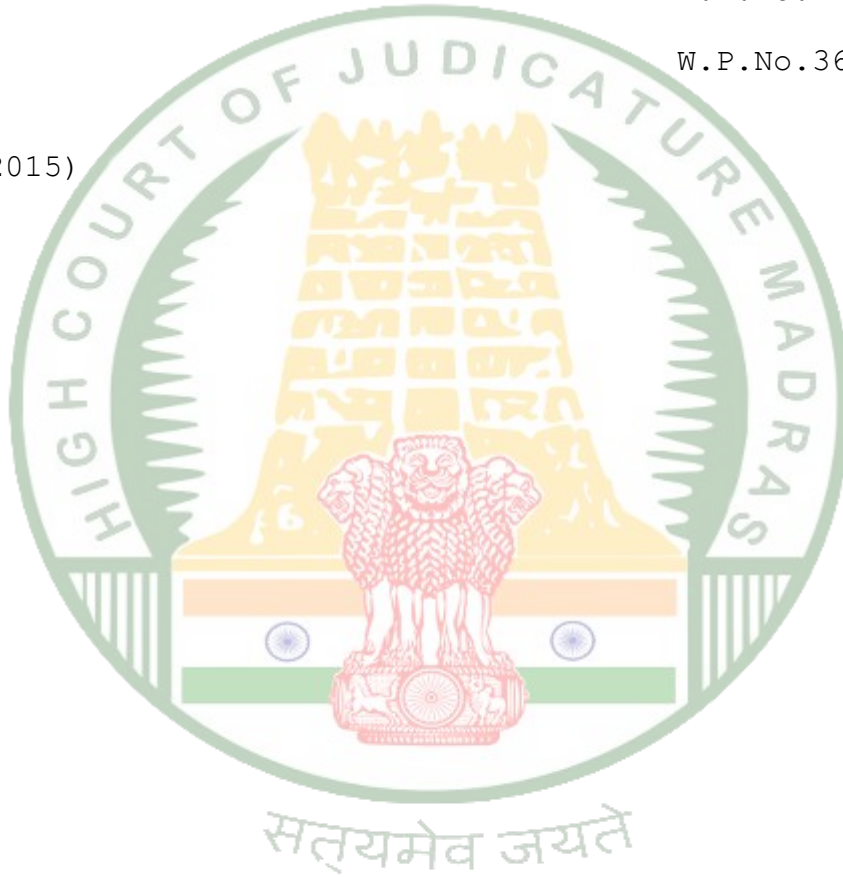
2.The Chief Engineer,
Highways Department,
Udhagamandalam, Nilgiris Distirct.

3.The Municipal Commissioner,
Udhagamandalam Municipality,
Udhagamandalam.

+1cc to Mr.J.Franklin, Advocate, S.R.No.62798
+2cc's to Mr.P.Srinivas, Advocate, S.R.No.62874 & 62875
+1cc to Mr.S.Sivakumar, Advocate, S.R.No.62780
+1cc to the Government Pleader, S.R.No.62905

W.P.No.24942 of 2015
and
W.P.No.36798 of 2015

VD(CO)
CA(10/12/2015)



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