

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

CORAM:

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

THE HON'BLE DR.JUSTICE P. DEVADASS

W.P.No.35446 of 2015

M. Mohan

...Petitioner

Vs

1 The Commissioner,
Corporation of Chennai, Ripon Building,
Chennai-600 003.

2 The Zonal Officer,
Zone-9, Corporation of Chennai,
No.1 Lake Area, 4th Cross Street,
Nungambakkam
Chennai-600 034

3 The Inspector of Police,
R-2 Kodambakkam Police Station,
Chennai-600 024

4 D.Anandaraj

...Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorari calling for the records relating to the impugned Notice dated 01.10.2015 under Ref No.Z.O.IX.C.No.A1/5044/2015 under section 220 RW 222 of the CCMC Chennai City Municipal Corporation Act, 1919 issued by the 2nd respondent and quash the same as illegal and invalid.

For Petitioner : M/s. Suchit Anant Palande

For Respondents : Mr. A. Nagarajan - R1 & R2

Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader - R3

ORDER

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

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 Impugning the notice dated 01.10.2015, issued under Section 220 read with 222 of the Chennai City Municipal Corporation Act, 1919 (for short "the Act"), the petitioner, who is stated to be a resident of nearby area, has filed the instant writ petition.

3 The sole contention of the learned counsel appearing for the petitioner is that the temple in question is 38 years old and it has been permitted to continue till date. Further, the people living in and around the area are worshipping the deity for divine blessings regularly and as such, the impugned order calling upon the petitioner to remove the temple in question is not proper and deserves to be set aside.

4 On the other hand, the learned counsel appearing for respondents 1 and 2 submits that the question of existence of the temple for more than 38 years will be examined as per guidelines framed by the Government in G.O.No. 437, dated 13.09.2010 for removal of the religious construction, after affording an opportunity of hearing to all the concerned parties.

5 We have examined the submissions advanced by the learned counsel for the parties.

6 On 16.02.2015, in the writ petition being W.P.No. 2303 of 2015 filed by the fourth respondent herein, a coordinate Bench of this Court directed the Corporation to consider his representation for removal of the temple in question, after giving notice to all the concerned parties, within a period of four weeks. Pursuant thereto, the impugned

order has been passed. Thereafter, the fourth respondent herein has made one more representation to the second respondent herein/Zonal Officer, Zone-IX, Corporation of Chennai, for removal of the temple in question. The second respondent herein, vide impugned order dated 01.10.2015, disposed of the representation as under:-

"You are the encroachers as per W.P.No.2303/2015. As such you have encroached the Corporation public road at Trustpuram 8th Cross Street, Kodambakkam, Chennai 600 024 in T.S.No. 31 of Puliur Village in Dn.112, Unit.26, Zone-IX.

The road was encroached by the temple in the name and style of "Sakthi Mari Temple" for an extent of 10.12 sqm (4.6m x 2.20m). The encroachment is illegal as per CCMC Act, 1919.

Hence Corporation of Chennai is entitled to remove the encroachment under Section 220 r/w 222 of the CCMC Act, 1919 and restore the public road for use of general public.

Therefore, after receipt of this notice, you are instructed to remove the temple within 3 days, failing which, Corporation of Chennai will take appropriate action for the removal of encroachment in terms of the provisions of the CCMC Act, 1919, and the cost will be recovered from you."

7 Be that as it may, in view of the submission made by the learned counsel for respondents 1 and 2 that the second respondent will examine the question of removal of such religious construction in the light of the aforesaid Government Order and take consequential action, we are not inclined to pass any order, at this stage. Accordingly, this writ petition is dismissed. Connected miscellaneous petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ra.

To

1 The Commissioner,
Corporation of Chennai, Ripon Building,
Chennai-600 003.

2 The Zonal Officer,
Zone-9, Corporation of Chennai,
No.1 Lake Area, 4th Cross Street,
Nungambakkam
Chennai-600 034

3 The Inspector of Police,
R-2 Kodambakkam Police Station,
Chennai-600 024

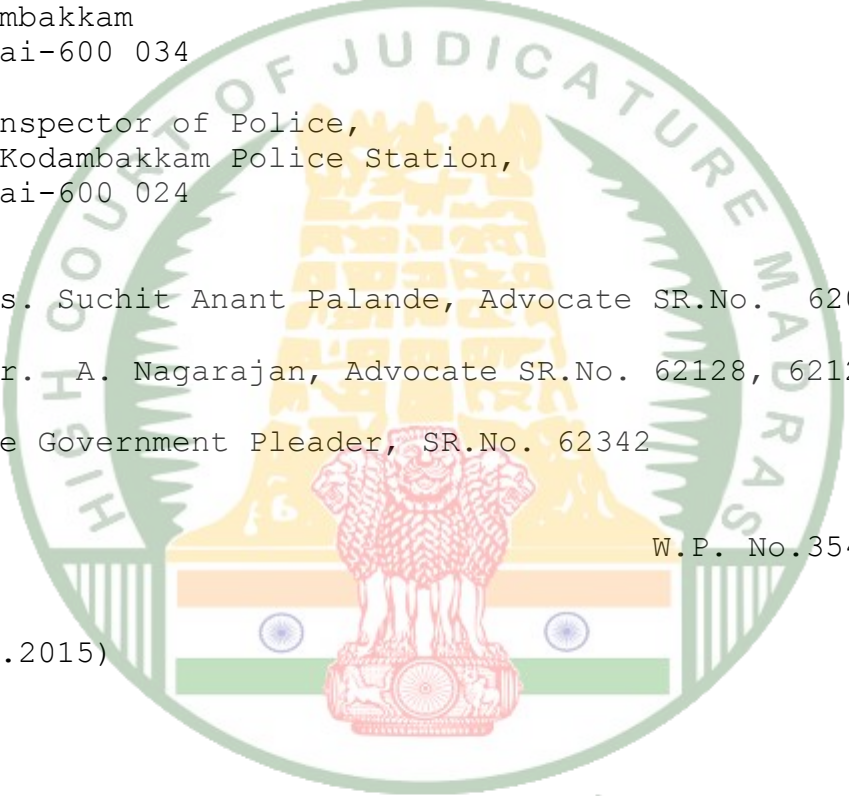
1 CC to M/s. Suchit Anant Palande, Advocate SR.No. 62093

2 CCs to Mr. A. Nagarajan, Advocate SR.No. 62128, 62129

1 CC to the Government Pleader, SR.No. 62342

W.P. No.35446 of 2015

MP (CO)
PSI (08.12.2015)



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