



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2015

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVANWrit Petition (MD) No.4057 of 2015
and MP(MD) NOS.1 and 2 of 2015

Isabella ... Petitioner

Vs.

1.The District Collector and Chairman,
Local Planning Authority,
Nagercoil Collectorate,
Nagercoil 629 001.2.The Commissioner,
Nagercoil Municipality,
Nagercoil 629 001.3.Member Secretary,
Local Planning Authority,
Collectorate,
Nagercoil.

4.S.Murugan ... Respondents

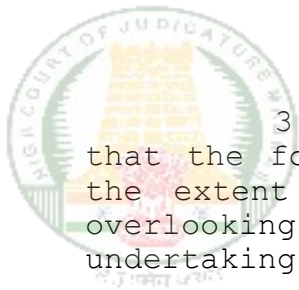
Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing respondents 1 to 3 to initiate proceedings under the provisions of the Town and Country Planning Act 1971 and the provisions of the District Municipalities Act in respect of the construction of 4th respondent in T.S.No. K1- 33/ 8 9 & 10 A.R. Camp Road Neendakarai Village covered by building plan permit number 265/ 2013 dt. 26.02.2013 of the 2nd respondent.

For Petitioner	: Mr.T.Lajapathi Roy
For Respondents 1&3	: Mr.S.Sathishkumar, Additional Government Pleader.
For 2 nd Respondent	: Mr.P.Athimoolapandian
For 4 th Respondent	: Mr.P.V.Sudhakar

ORDER

This writ petition has been filed for the issuance of Writ of Mandamus, directing respondents 1 to 3 to initiate action under the provisions of the Town and Country Planning Act, 1971 and the provisions of the District Municipalities Act in respect of the construction of the fourth respondent in T.S.No.K1- 33/ 8 9 and 10 A.R. Camp Road, Neendakarai Village said to be not covered by building plan permit number 265/ 2013 dated 26.02.2013 of the second respondent.

2.On an earlier occasion, when the matter came up on 06.07.2015, this Court directed the fourth respondent to get along with the construction works by strictly adhering to the terms of the affidavit of undertaking filed by him.



3. Pursuant to the order passed by this Court, it is submitted that the fourth respondent has removed the projecting concrete slabs to the extent of one and half feet and he has also closed the windows overlooking the petitioner's property. The fourth respondent filed an undertaking affidavit to that effect, which is reproduced hereunder:-

"2. I submit that in the writ petition I have filed an undertaking affidavit on 03.07.2015. In pursuance thereof, I have removed projecting concrete slabs to the extent of one and half feet. Now the rain water would fall and flow only in my property. I have closed the windows overlooking the petitioner's property. It is therefore, prayed that this Hon'ble Court may be pleased to record the compliance regarding the bona fides of the undertaking and vacate the order of interim injunction dated 26.03.2015 granted in M.P(MD)No.1 of 2015 in W.P(MD)No.4057 of 2015 and permit the 4th respondent to carry out the construction within the frame work of law to the satisfaction of the respondents 1 and 2 herein and thus render justice".

4. It has also been undertaken by the fourth respondent that any further construction to the level of third floor will be carried out only in accordance with the approved plan.

5. In such view of the matter, the writ petition is disposed of recording the above said undertaking affidavit filed by the fourth respondent. The injunction granted by order dated 26.03.2015 is vacated. However, it is always open to the parties to agitate their rights, if any of the conditions are violated. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2015 are closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

sms

To

1. The District Collector and Chairman,
Local Planning Authority, Nagercoil Collectorate, Nagercoil 629 001.
2. The Commissioner,
Nagercoil Municipality, Nagercoil 629 001.
3. Member Secretary,
Local Planning Authority, Nagercoil Collectorate, Nagercoil.
+one cc to Mr.T.Pon Ramkumar, Advocate in SR.No.41038
+one cc to Mr.T.Lajapathi Roy, Advocate in SR.No.41325
+one cc to The Special Government Pleader in SR.No. 41150

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