



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P. (MD) No. 5005 of 2013

L.Jagannathan

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Theni District.

2.The Regional Director of Municipal Administration,
Aringar Anna Maligai,
Madurai Corporation,
Madurai - 2.

3.The Commissioner,
Theni Allinagaram Municipality,
Theni District.

4.D.Henry Hoseph

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 and 3 to take effective steps to remove the unauthorized dangerous construction, which was put up over the petitioner's compound wall to the height of 30 feet to the length of some 11 feet towards south by the fourth respondent herein without obtaining permission from the third respondent herein and to save the life of the petitioner and his family members.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.A.K.Baskarapandian, Spl.G.P.for R1 & 2

Mr.K.Hemakarthiskeyan for R3

Mr.F.X.Eugen for R4

O R D E R

(Order of this Court was made by S.TAMILVANAN,J.)

The Writ petition has been filed, seeking an order in the nature of Writ of Mandamus, directing the respondents 2 and 3 to take effective steps to remove the unauthorised construction put up by the fourth respondent over the petitioner's compound wall to the height of 30 feet and length of 11 feet towards south, without obtaining permission from the Commissioner, Theni Allinagaram Municipality, third respondent herein.

2.Heard the learned counsel appearing for the petitioner, learned counsel Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4.

3.It is submitted by the learned counsel appearing for the petitioner that the petitioner's property is on the Northern side and the fourth respondent's property is on the Southern side and in between, south-west compound wall was constructed un-authorizedly, violating the building permission granted by the Theni Allinagaram Municipality.



4.Learned Special Government Pleader appearing for the third respondent submitted that on verification it was found that there is a violation in constructing the compound wall by the fourth respondent and appropriate action was also being taken by the Commissioner, Theni Allinagaram Municipality according to law. The same was also stated in the counter affidavit, which was filed by the third respondent.

5.It is well settled that within the Municipal limit, no one can construct building violating the building construction Rules or against the sanctioned plan. If it is so, the Municipal Commissioner can take action according to law. Here the scope of the Writ petition is limited. The petitioner seeks direction against the respondents 2 and 3 to take appropriate action based on the alleged unauthorised construction put up by the fourth respondent.

6.On the aforesaid facts and circumstances, we find it just and reasonable to direct the Commissioner, Theni Allinagaram Municipality, third respondent herein to take appropriate action, if there is any violation in the construction made by the fourth respondent according to law

7.Accordingly, the Writ petition is disposed of directing the Commissioner, Theni Allinagaram Municipality, third respondent herein, to take appropriate action, if there is any violation in the construction made by the fourth respondent according to law, within a period of six weeks from the date of receipt of a copy of this order.

8.If there is any other civil dispute between the parties, the same has to be decided by the independent competent forum.

No costs.

(
Sd/-
Assistant Registrar(T&P)
/True Copy/

Sub- Assistant Registrar

To

1.The District Collector,
Collectorate,
Theni District.

2.The Regional Director of Municipal Administration,
Aringar Anna Maligai,
Madurai Corporation,
Madurai - 2.

3.The Commissioner,
Theni Allinagaram Municipality,
Theni District.

+1cc to Mr.B.BrijeshKishore, Advocate SR.No.11554
+1cc to Mr.K.Hemakarthiskeyan, Advocate SR.No.11575
+1cc to Mr.F.X.Eugene, Advocate SR.No.11540
+1cc to Special Government pleader SR.No.12074

nbj

sm:16.04.2015:2P/8C

W.P. (MD) No.5005 of 2013
10.03.2015