

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.04.2016

CORAM

The Hon'ble Mr. Justice T.S. Sivagnanam

W.P.No.13684 of 2016

and

W.M.P.No.11973 of 2016

Dr. Ahmed Sheriff

.. Petitioner

Versus

1. Union of India,
Rep. by Secretary,
Ministry of Transport and Highways Department,
New Delhi.
2. The Project Director,
Project Implementation Unit,
National Highways Authority of India,
Old No.28/1, New No.51/2, 50 Feet Road,
Krishnaswamy Nagar,
Gem Hospital (Backside)
Ramanthapuram,
Coimbatore - 641 018.
3. The Assistant Divisional Engineer,
National Highways,
Avinashi Road, Coimbatore.
4. The Regional Director of Municipalities,
Collectorate, Tiruppur,
Tiruppur District.
5. The Tahsildar,
Udumalpet Taluk,
Udumalpet.
6. The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.
7. The Commissioner,
Udumalpet Municipality,
Udumalpet.

.. Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondents particularly respondents 1, 2, 3 and 7 not to initiate any proceedings to acquire or enter into the land and building owned by the petitioner at Door No.10/1, Dharapuram Road, abutting to Pollachi Palani Main Road, Udumalpet, Tiruppur District, without following the procedures as contemplated under the relevant Act.

For Petitioner : Mr.T.Thiyagarajan
For M/s.Waron and Sairams

For Respondent-2 : Mr.Richardson
For Mr.P.Wilson & Associates.

For Respondents 3 to 6 : Mr.R.Rajeswaran,
Special Government Pleader

For Respondent-7 : Mr.A.S.Thambusamy and
Mr.B.Anand

O R D E R

Heard Mr.T.Thiyagarajan, the learned counsel, representing M/s.Waron and Sai Ram Associates, learned counsel appearing for the petitioner; Mr.Richardson, the learned counsel, representing M/s.P.Wilson & Associates, learned counsel accepting notice on behalf of the second respondent; Mr.Mr.R.Rajeswaran, learned Special Government Pleader, accepting notice on behalf of the respondents 3 to 6 and Mr.A.S.Thambusamy, learned counsel representing Mr.B.Anand, learned counsel accepting notice on behalf of seventh respondent.

2. The learned counsels appearing on either side submitted that the issue involved in this writ petition is no longer res integra, as it is squarely covered by the earlier decision of this Court in a batch of cases, viz., in W.P.Nos.12890, 13004, etc., of 2016, dated 12.04.2016, and at this stage, it would be beneficial to quote the relevant paras of the order, which reads as follows:-

"7.The petitioners had serious apprehension that their buildings will be pulled down by the respondents and they expressed serious concern and the manner in which the Udumapet Municipality has been going ahead in the matter. Therefore, the Court entertained the Writ Petitions and gave them a protective status quo order. However, it is made clear that this protection was restricted only to such a those petitioners who had approached this Court and it is not a blanket order restraining the respondents from proceeding with the project.

8.In the light of the submission made by the learned counsel for the National Highways, on instructions, it is clear that the petitioners need not have any apprehension that their buildings will be pulled down as in one section feasibility survey is being done and the other section work is to be done by the State Highways Wing and both these works shall be done strictly under the provisions of the National Highways Act.

9.So far as the action to be initiated by the Udumalpet Municipality is concerned, there cannot be any fetters on the power exercised by the Commissioner or by the Municipal Council under the provisions of the District Municipalities Act. But, it goes without saying that whenever action is being initiated by the Municipality, it shall be in accordance with law after due notice to the parties.

10.Thus, with the above observations, these Writ petitions stand disposed of, making it clear that the National Highways shall proceed with the project strictly adhering to the provisions of the National Highways Act. Likewise, the respondent-Municipality also, if they intend to take any action with regard to any unauthorized construction or encroachment, they shall also follow the procedure under the District Municipalities Act and the Rules framed therein. Once again, it is made clear that this order shall enure the benefit of the

petitioners alone. No costs. Consequently,
connected miscellaneous petitions are closed."

3. Thus, following the above order, the present writ
petition is also disposed of, on the above lines. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

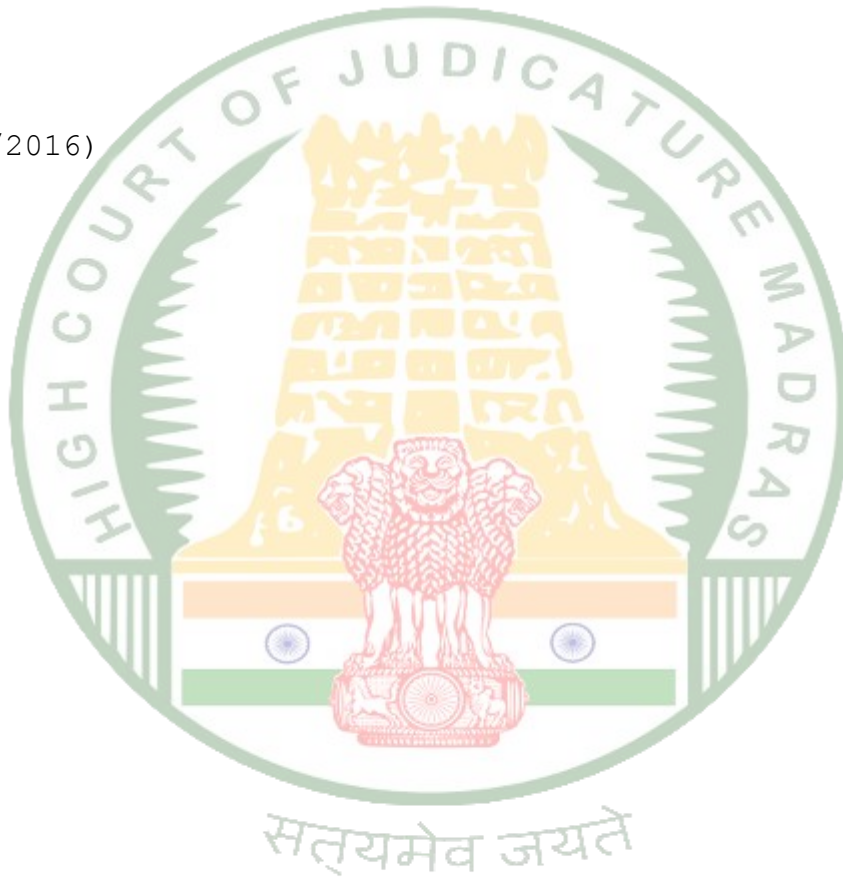
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Udumalpet.

+1cc to the Government Pleader Sr.23506
+1cc to M/S.Waran and Sairams, Advocate Sr.23255
+1cc to Mr.P.Wilson Associates, Advocate Sr.23317

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srg(19/05/2016)



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