

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.14328 of 2016
and
W.M.P. Nos.12512 and 12513 of 2016

M.Utthama Asirvatha Udaiyar ... Petitioner

Vs.

1.The Commissioner,
Erode City Municipal Corporation,
Erode - 638 001.

2.The Standing Committee,
Erode City Municipal Corporation,
Erode - 638 001.

3.Rangasamy Gounder
4.Kumar

... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent under Ref.No.E2/781/2016 dated 11.04.2016 received by the petitioner on 12.04.2016 u/s 56 and 57 of the Erode City Municipal Corporation Act for locking and sealing of the premises, situated in Plot No.59, S.F.No.109/1, 2, Abraham Nagar (Senthamil Nagar), Kaikattivalasu, Villarasampatti, Erode, within 3 days, even without disposing the appeal dated 01.04.2016 pending before the second respondent and quash the same as violative of the principles of natural justice and statutory right.

For Petitioner .. Ms.Meera Nagarajan
for M/s.S.Xavier Felix

For Respondents .. Mr.M.Raja Mathivanan for R1 & R2
R3 & R4 - Not ready in notice

ORDER

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

With the consent of the learned counsel appearing for the petitioner and the learned counsel for respondents 1 and 2, the writ petition is taken up for final disposal.

2.Assailing the locking and sealing notice dated 11 April 2016, whereunder, the petitioner was required to restore the land to its original position, the instant writ petition is filed.

3.It is the case of the petitioner that he purchased the plot in question and constructed a house in the said property. While so, the first respondent issued the stop work notice dated 08 March 2016 and thereafter, passed an order dated 21 March 2016 under Section 284 of the Erode City Municipal Corporation Act, 2008. Thereafter, the Assistant Commissioner issued a locking and sealing notice dated 29 March 2016, against which, the petitioner preferred an appeal under Section 452 of the Erode City Municipal Corporation Act, before the first respondent dated 01 April 2016. The petitioner has also filed a writ petition being W.P.No.13496 of 2016 and the same was dismissed as withdrawn. While so, the petitioner was served with the impugned notice dated 11 April 2016. Aggrieved by the same, the petitioner is before this Court.

4.Learned counsel appearing for the petitioner submits that earlier, the petitioner has preferred an appeal under 452 of the Erode City Municipal Corporation Act, questioning the legality of the notice dated 29 March 2016. Pending the appeal, the instant notice has been issued under the provisions of Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

5.The statutory remedy is available against the impugned notice before the State Government under the provisions of Section 80-A of the Act. In such view of the matter, we are not inclined to adjudicate the dispute, at this stage.

6.Accordingly, the writ petition stands disposed of, reserving liberty to the petitioner to take recourse to the statutory forum, if so advised. There shall be an order of

status quo, as obtained today, for a period of two weeks. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Commissioner,
Erode City Municipal Corporation,
Erode - 638 001.

2.The Standing Committee,
Erode City Municipal Corporation,
Erode - 638 001.

+1cc to Mr.M. Rajamathivanan, Advocate, S.R.No.26012
+1cc to Mr.Xavier, Advocate, S.R.No.26121

NR(CO)
EU(13/05/2016)

W.P. No.14328 of 2016

सत्यमेव जयते

WEB COPY