

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Contempt Petition No.2120 of 2016
and Sub App.(O.S).No.455 of 2016
and WMP.No.29540 of 2016
in W.P.No.27387 of 2016

Contempt Petition No.2120/2016:

N.Natarajan

Vs

.. Petitioner

Kanniapan
The Executive Officer,
Vadakanathal Town Panchayat
Villupuram District

.. Respondent

Prayer : Contempt Petition filed praying to punish the respondent for disobeying the order passed by this Court on 05.08.2016 in W.P.No.27387 of 2016.

W.M.P.NO.29540 of 2016

IN

W.P.NO.27387 of 2016

Grama General Welfare Sangam,
Registration No.7/2015,
Rep. By its President,
Pasarai Balu,
Kamaraj Nagar,
Kachirapalayam,
Chinna Salem Taluk,
Villupuram District

... Impleading
Petitioner/Proposed Party.

Vs.

1.Natarajan,
S/o.Narayanan,
21-A, Mariamman Kovil Street,
Kachirapalayam,
Chinna Salem Taluk,
Villupuram District 606 207

... Petitioner/1st Respondent

- 2.The Government of Tamilnadu,
Represented by Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Secretariat,
Chennai 600 009.
- 3.The Commissioner of Town and Country Planning,
No.807, Anna Salai,
Chennai 600 002.
- 4.The District Collector/Chairman,
Villupuram Local Planning Authority,
Collectorate,
Villupuram.
- 5.The Assistant Director of Town Panchyat,
Cuddalore Zone,
Cuddalore.
- 6.The Executive Officer,
Vadakanathal Town Panchayat,
Villupuram District. ... Respondents/Respondents

Prayer: This Miscellaneous Petition is filed to implead the
Petitioner/Grama General Welfare Sangam, represented by its President
Pasarai Balu as necessary party in W.P.No.27387/2016

For Petitioner :: Mr.P.Valliappan in Cont.Petition and
1st Respondent in WMP No.29540/2016

For Respondent :: Mr.P.S.Sivashanmughasundaram Special
Government Pleader in Cont.Petition and
RR2 to R6 in WMP No.29540/2016

For Proposed
Party/Pertitioner:: B.Prabhakaran for Mr.K.Balakrishnan in
WMP No.29540/2016

ORDER

(Order of the Court was made by **HULUVADI G.RAMESH, J.**)

This contempt petition is filed by the petitioner who obtained
order dated 05.08.2016 in W.P.No.27387 of 2016, now, praying to
punish the respondent for disobeying the said order passed by this
Court.

2. According to the contempt petitioner, although this court directed the 5th respondent to consider the plan approval submitted by the petitioner and process the same without any delay and further not to take any coercive steps till a decision is taken by the 1st respondent, the 5th respondent viz., The Executive Officer, Vadakanathal Town Panchayat, locked and sealed the premises of the petitioner on 08.08.2016. In the said order, the 1st respondent was directed to consider and dispose of the petitioner's appeal filed under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as "Act"), in accordance with law within 3 months from the date of receipt of a copy of the order, after affording an opportunity to the petitioner.

3. It is to be seen that one Grama General Welfare Sangam, represented by its President Pasarai Balu Kamaraj Nagar, Kachirapalayam Chinna Salem Taluk, Villupuram District, filed W.P.No.3518 of 2015, arraying the State Authorities as 1 to 4, 5th respondent being the Executive Officer, Town Panchayat Vadaganandal Chinna Salem, The Tahsildar and the Inspector of Police, Chinna Salem Taluk as respondents 6 and 7, 8th respondent being Raman, and 9th respondent being Venkataraman, wherein, the prayer was as under:-

"Writ of Mandamus directing the respondents 1 to 7 to remove the encroachments being made by the 8th and 9th respondents in Survey No.445/3 and 445/2C4 an extent of 12 cents in Vadakanandal Village by removing the illegal construction put by the 8th and 9th respondents in the above lands."

4. Heard Mr.S.Prabakaran, learned counsel who appeared for the petitioner in W.P.No.3518 of 2015. The petitioner in W.P.No.3518 of 2015 viz., Grama General Welfare Sangam, represented by its President Pasarai Balu Kamaraj Nagar, Kachirapalayam Chinna Salem Taluk, Villupuram District, now filed W.M.P.No.29540 of 2016 in W.P.No.27387 of 2016, seeking to implead them as necessary party in W.P.No.27387 of 2016.

5. In the above mentioned Writ Petition No.3518 of 2015, this court, issued direction by order dated 17.04.2015 as under:-

"4. A copy of the notice (explanation) dated "nil" has been produced before us, which does not indicate anything as to whether it was filed or not and also if filed, 'when'. We are not going into the contents of the so-called explanation filed by the 8th respondent, since notice has also been issued for locking and sealing the building, in question. It is open to the authorities to take appropriate action in accordance with law. The 8th respondent is at liberty to appear in person and to make appropriate submission, if so advised."

6. As already noted in the preceding paragraph, in W.P.No.27387 of 2016 filed by one N.Natarajan, it was claimed by him that he was the President of the Boyar Sangam and is the absolute owner of the extent of 8 cents situated in Survey Nos.445/3, Vadakandandal East Village, Chinna Salem Taluk, Villupuram District, and is in possession and enjoyment of the said land and started putting up construction in an extent of 4 cents and approached 5th respondent

with a building plan in the year 2015 and due to the delay caused by the 5th respondent, necessary approval could not be obtained, however, the 5th respondent issued Notice under Sections 56 and 57 read with Section 85 of the Act for lock and seal dated 01.03.2016.

7. In the said W.P.No.27387 of 2016, this court, by order dated 05.08.2016, issued the following direction:-

" 5. Considering the above averments made in the Writ Petition and also the submissions made by the learned counsel for the petitioner, we hereby direct the 5th respondent to consider the plan approval submitted by the petitioner and process the same without any delay and further not to take any coercive steps against the petitioner till a decision is taken by the 1st respondent. On the other hand, the 1st respondent is directed to consider and dispose of the Petitioner's appeal filed under Section 80(A) of the Act, in accordance with law, within 3 months from the date of receipt of a copy of this order, after affording an opportunity to the petitioner. "

8. Thus a reading of the order dated 05.08.2016, shows that the petitioner in W.P.No.27387 of 2016 viz., the President of the Boyar Sangam, filed appeal under Section 80(A) of the Act, before the Government and the same is pending as on date.

9. The prayer in W.P.No.3518 of 2015 was for removal of the encroachments made by the Boyar Sangam and that was ordered to be

considered by the appropriate authority. But in W.P.No.27387 of 2016, which was preferred by one Natarajan, who stated to be the President of the Boyar Sangam in paragraph 1 of the accompanying affidavit filed in support of the writ petition, which filed on 1st day of August 2016, and the 8th respondent in W.P.No.3518 of 2015, viz., Raman also belongs to Boyar Sangam, against whose encroachment, the direction was issued by this court as early as on 17.04.2015, to the authorities to take action in accordance with law. However, Natarajan, representing the Boyar Sangam, has again come into picture and filed Writ Petition No.27387 of 2016 and obtained the order, wherein this court issued direction to the 5th respondent, to consider the plan approval and process the same and further not to take any coercive steps against the petitioner.

10. The grievance of the present petitioner in W.M.P.No.29540 of 2016 who already filed W.P.No.3518 of 2015 is that the disputed land in Survey No.445/3, and also the other Survey No.445/2C4 were said to have been acquired by the State Government for the house site to the Adhi Dravidars of Kachirayapalayam in the year 1956 and the Poyar community people cannot claim any right on those lands.

11. In any event, the issue as regards approval or otherwise of the construction in Survey No.445/3 carried out by the Boyar Sangam is pending in appeal under Section 80(A) of the Act and the issue now sought to be raised in the contempt petition and WMP are all one and the same. It is for the petitioners in both these writ petitions

viz., Grama General Welfare Sangam and N.Natarajan/Boyar Sangam, to appear, before the Government, if not already appeared in respect of

the appeal pending under Section 80(A) of the Act and submit their explanation and seek their relief by expressing their grievance.

12. Taking note of the peculiar facts and circumstances of the case, we find that the Petitioner-Boyar Sangam who filed W.P.No.27387 of 2016, who has been arrayed as 8th respondent in W.P.No.3518 of 2015, moved this court independently, after a direction has been issued by this Court by order dated 17.04.2015 and ventured to obtain two different orders.

13. It is for the Secretary to Government, Housing and Urban Development Department, to exercise its power under Section 80(A) of the Act, after taking into consideration the submissions made by the parties in W.P.No.3518 of 2015 and W.P.No.27387 of 2016 and pass appropriate orders in accordance with law. Till such a decision is taken by the Government in the pending 80(A) appeal, filed by the Boyar Sangam, there shall be an order of status quo.

14. With the above observation, this Contempt Petition filed by the petitioner in W.P.No.27387 of 2016 is closed. In the light of the order passed above, no separate order need be passed in WMP.No.29540 of 2016. Accordingly, W.M.P.No.29540 of 2016 stands closed.

Nvsri

SD/
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

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COURT OFFICER(O.S.)

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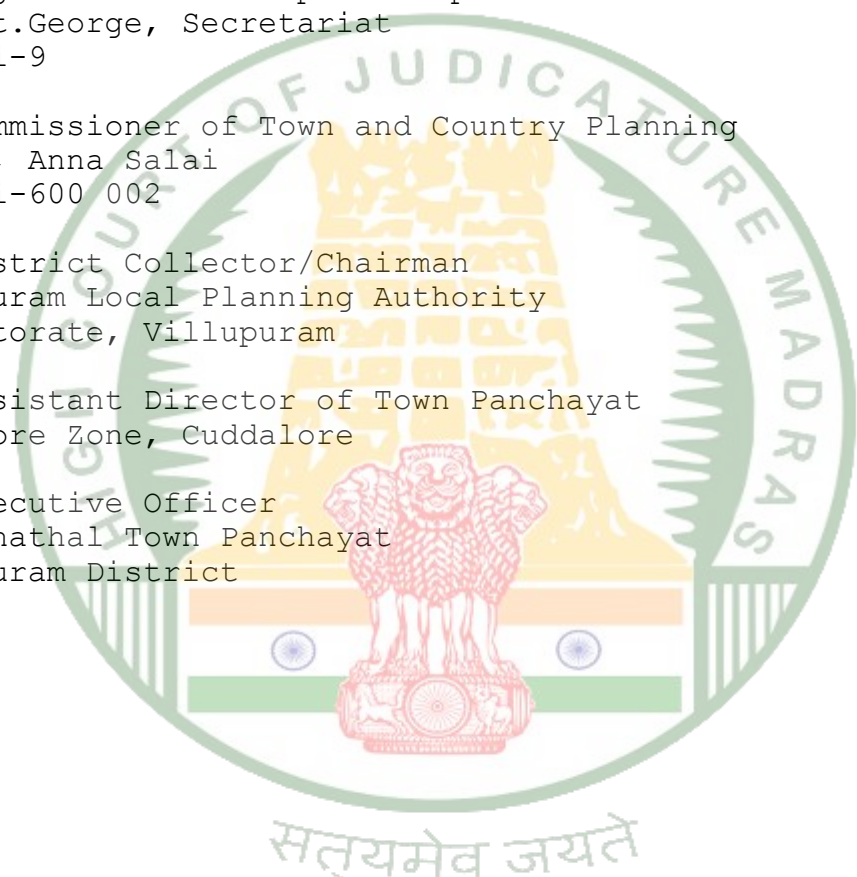
CO/23/11/2016

One CC to K.Balakrishnan, Advocate, SR.14352/2016

One CC to Mr.P.Valliappan, Advocate, SR.14279/2016

To

- 1 The Government of Tamilnadu
rep. by Secretary to Government
Housing & Urban Development Department
Fort St.George, Secretariat
Chennai-9
- 2 The Commissioner of Town and Country Planning
No.807, Anna Salai
Chennai-600 002
- 3 The District Collector/Chairman
Villupuram Local Planning Authority
Collectorate, Villupuram
4. The Assistant Director of Town Panchayat
Cuddalore Zone, Cuddalore
5. The Executive Officer
Vadakanathal Town Panchayat
Villupuram District



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