

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.1492 of 2016 and W.M.P. Nos.1271 to 1273 of 2016

N. Shankar

...Petitioner

Vs.

1 The Commissioner
Udhagamandalam Municipality
Municipality Office
Udhagamandalam

2 The General Manager
Nilgiris District Cooperative Milk
Producers' Union Limited
No.69, Udhagamandalam

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the entire records of the first respondent in his proceedings in Notice Na.Ka.No.13976/2015/F1 dated 08.12.2015 and quash the same and consequently, direct the first respondent not to interfere with the peaceful possession of the petitioner's Aavin Milk Booth at Survey No.4158, Anna Nagar, NCMS Corner, Udhagamandalam.

For petitioner Mr. Stalin Abhimanyu
For R1 Mr. N. Sakthivel
Govt. Advocate

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Notice to the second respondent is dispensed with at this stage, inasmuch as no adverse order is passed against the said respondent. Thus, with the consent of

the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed assailing the notice dated the 8th ultimo issued by the first respondent, viz., the Commissioner, Udhagamandalam Municipality, whereby and whereunder, the petitioner has been directed to remove the alleged encroachment made by him by running Aavin Milk Booth sans permission and further, for a consequential direction to the first respondent not to interfere with the petitioner's running of the Aavin Milk Booth at Survey No.4158, Anna Nagar, NCMS Corner, Udhagamandalam.

3 Incontrovertibly, the petitioner has filed a suit in O.S. No.173 of 2015 on the file of the District Munsif Court, Ootacamund, the Nilgiris, seeking permanent injunction in respect of the very same property involved herein, viz., the property bearing Survey No.4158, Anna Nagar, NCMS Corner, Udhagamandalam and the said suit is under consideration.

4 According to the learned counsel for the petitioner, during pendency of the aforestated suit, the impugned notice has been issued, calling upon the petitioner to vacate the milk booth in question.

5 Be that as it may, for the same relief sought in this writ petition, the aforestated suit is under consideration before the District Munsif Court, Ootacamund, the Nilgiris. Such being the factual position, it is not proper for this Court to entertain this writ petition, at this stage.

Accordingly, the writ petition stands dismissed sans costs. However, the petitioner may obtain appropriate relief, if so advised, in the pending suit. Connected W.M.Ps. are closed.

sd/-

Assistant Registrar(Cs-V)

/TRUE COPY/

Sub-Assistant Registrar

cad
To

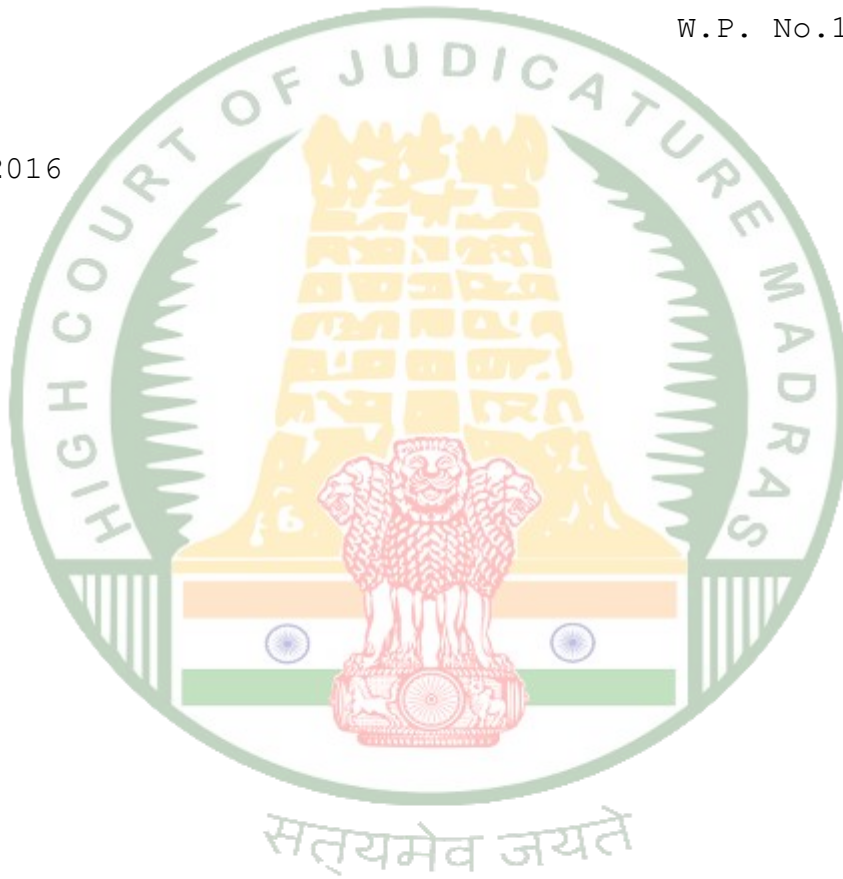
1 The Commissioner
Udhagamandalam Municipality
Municipality Office
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2 The General Manager
Nilgiris District Cooperative Milk
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+1 CC to MR.P.srinivas Advocate. SR.NO.2924
+1 CC to MR.Stalin Abhimanyu Advocate. SR.NO.4039
+1 CC to Govt.Pleader. SR.NO.2734

W.P. No.1492 of 2016

CO-AK
JD 25/01/2016



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