

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2016

Coram

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

Writ Petition No.15600 of 2016

&

W.M.P.No.13568 of 2016

P.A.Mangalam

...Petitioner

Vs.

The Chief Executive Officer
Office of the St.Thomas Mount
cum Pallavaram Contonment Board
St.Thomas Mount, Chennai-600 016

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the respondent made in No.STM/Works/8/1133 dated 16.03.2016 and quash the same and consequently direct the respondent their men, agents, servants, or subordinates, or anybody acting on their behalf not to demolish the petitioner's existing building and committing any act of waste in No.9, G.S.T. Road, St.Thomas Mount, Chennai-16.

For Petitioner : Ms.Selvi George

For Respondent : Mr.C.Mohan

for M/s. King and partridge

O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. The petitioner has filed this writ petition to quash the proceedings issued by the respondent dated 16.03.2016, by which the respondent in exercise of powers u/s.248(1) of the Cantonments Act, 2006 has issued notice to the petitioner to demolish the building which has been erected in violation of the rules.

3. When the matter was listed for admission today in the forenoon this Court directed the learned counsel for the petitioner to serve notice on the standing counsel for the respondent Cantonment Board and accordingly Mr.Mohan representing M/.s King and Partridge is present in Court when the case is taken up for hearing in the post lunch session.

4. Learned counsel for the respondent pointed out that the very same writ petitioner had filed an earlier writ petition in W.P.No.25819 of 2012, wherein he sought to forbear the respondent from demolishing the petitioner's existing building and committing acts of bias. Thus the prayer sought for in the earlier writ petition was identical to the prayer sought for in this writ petition except for the fact that the petitioner now seeks for quashing the notice issued by the respondent. The said writ petition has been dismissed. However, there are certain observations made while the Court dismissed the writ petition. The order was passed on 09.11.2012 and it is also reported in 2013 1 MLJ 161.

5. On a perusal of the affidavit filed in support of the writ petition it is clear that the petitioner has suppressed the fact with regard to the filing of the earlier writ petition. The justification the petitioner's counsel seeks to make is by contending that the earlier show cause notice issued in 2014 has been appended in the typed set of papers. This argument is of little avail since the earlier writ petition was dismissed by order dated 09.11.2012. Therefore, on this short ground that the petitioner having approached this Court with unclean hands guilty of suppression of material facts. The writ petition does not deserve consideration and it is dismissed with costs of Rs.5,000/- payable to Tamilnadu Mediation and Conciliation Centre attached to this Court within a period of ten days from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kpr

To

1. The Chief Executive Officer
Office of the St.Thomas Mount
cum Pallavaram Contonment Board
St.Thomas Mount, Chennai-600 016.

2. The Secretary, The Tamil Mediation and
Conciliation Centre, High Court, Madras.

+ 1 cc to Mrs. Selvi George, Advocate SR.26128

+ 1 cc to M/s. King & Partridge, Advocate Sr.26515

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PUR(CO)

EU 04.5.16