

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G. RAMESH
AND

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

Writ Petition No.17320 of 2016

I. Chandrasekaran

.. Petitioner

Vs.

1. The District Collector,
Tirupur.
2. The President,
Perumanallur Panchayat,
Perumanallur, Avinashi Taluk,
Tirupur District - 641 666.
3. The Bishop,
Church of South India,
Race Course Road,
Coimbatore - 18.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the 2nd respondent to conclude the proceedings initiated by his order in Na.Ka.No.01/2015-2016, dated 19.08.2015 within the time frame fixed by this Court in accordance with law.

For Petitioner : Mr. Shyam Kumar
for Mr. S. Vignesh

For R1 & R2 : Mr. P. S. Sivashanmugasundaram,
Special Government Pleader

For R3 : Mr. D. Prabhu Mukunth Arunkumar
for Mr. S. Bharathi Rajan

O R D E R

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

The petitioner has come up with this Writ Petition seeking a direction to the 2nd respondent to conclude the proceedings initiated by him vide proceedings in Na.Ka.No.01/2015-2016, dated 19.08.2015.

2. Heard the learned counsel for the parties and gone through the affidavit filed by the petitioner.

3. According to the petitioner, he is in possession and enjoyment of the property to an extent of 1544 $\frac{1}{4}$ sq. ft in Village Natham New Survey No.392/1 in Village Natham Old Survey Nos.274-B, 1A, 1A, 1A (New Survey No.392/1, 4) and a house property to an extent of 360 sq. ft. in the land measuring an extent of 721 $\frac{1}{2}$ sq. feet in Perumanallur Village, Tiruppur Taluk, Avinashi Sub Registration District and Tiruppur District by way of Partition Deed No.3826/2002 registered on 23.10.2002 on the file of the Sub-Registrar, Avinashi. Adjacent to the property of the petitioner, on the eastern side, there was a Natham poramboke land to an extent of 4.78 cents and the petitioner used the earmarked road in the said poramboke land to access their property. Subsequently, in the said Natham poramboke land, a small C.S.I. Church was constructed and now the C.S.I. Church has come forward to construct a new Church by demolishing the old one with an extended area of 152 sq. m. (3.75 cents) than the actual and original extent of 94 sq. m. (2.32 cents), leaving 10 feet width road on the southern side of the Church, to have ingress and egress to their property. After sub-division of the petitioner's properties, the remaining portion of the property was occupied by C.S.I. Church and Survey No.392/3 was assigned. Now, the grievance of the petitioner is that the construction of the Church is not only an encroachment on his property, but is also flouting the norms.

4. It is the contention of the learned counsel for the petitioner that despite several representations made by the petitioner to the authorities concerned to stop the illegal construction put up by the 3rd respondent, no action is taken so far.

5. According to the learned counsel for the 3rd respondent, the Church has got permission as contemplated under the Act and the construction of the Church is done in a bonafide manner. It is his contention that the petitioner and his brother are harassing the Church and its members in Perumanallur

Village by way of illegal proceedings.

6. From the records, it is seen that the petitioner herein had earlier approached a Division Bench of this Court in W.P.No.14221 of 2015 seeking a direction to the District Collector, Tiruppur to initiate action against the 5th respondent therein/Bishop, Church of South India, Coimbatore in accordance with Rule 34 of the Tamil Nadu Panchayats Buildings Rules, 1997 and also taking into account the violation of Rule 4 (3) of the said Rules and this Court, by an order dated 06.05.2015, passed the following order:

"4. If there is any violation in constructing the building, the petitioner can seek his remedy before the appropriate forum and he cannot seek a direction, based on the disputed question of fact against the fifth respondent based on the alleged unauthorised construction. Therefore, we are of the view that the petitioner should approach only the Civil Court for seeking his remedy and by way of filing the Writ Petition seeking direction to the first respondent/District Collector regarding the unauthorised construction, would not be proper."

7. When this Court had earlier dismissed the Writ Petition filed by the petitioner herein holding that his remedy lies only before the Civil Court, without availing the said remedy, the petitioner has again approached this Court, resulting in multiplicity of proceedings. Hence, this Court is of the view that no further orders are necessary in this petition.

In fine, this Writ Petition is dismissed. No costs. Consequently, connected W.M.P.No.14798 of 2016 is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

aeb

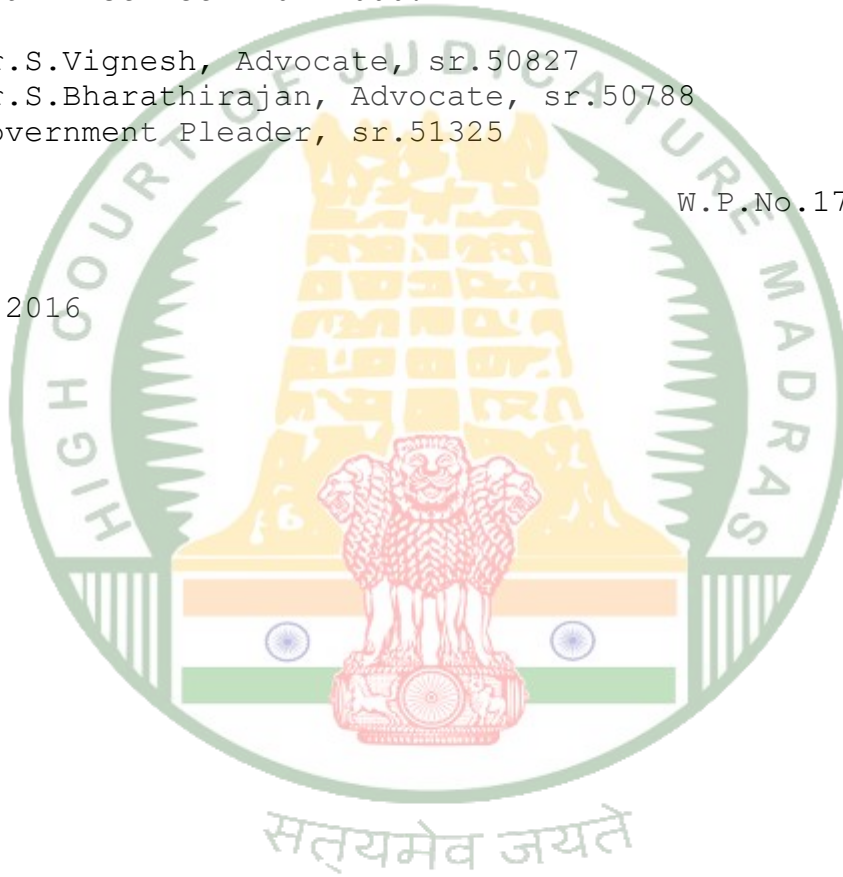
To:

1. The District Collector,
Tirupur.
2. The President,
Perumanallur Panchayat,
Perumanallur, Avinashi Taluk,
Tirupur District - 641 666.

1 cc to Mr.S.Vignesh, Advocate, sr.50827
1 cc to Mr.S.Bharathirajan, Advocate, sr.50788
1 cc to Government Pleader, sr.51325

W.P.No.17320 of 2016

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kra 06.10.2016



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