

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.5610 of 2013

1.Arockiam
2.A.Ebinezer
3.V.Daniel Pooranan .. Petitioners

-vs-

1.The Commissioner,
Pollachi Municipality,
Pollachi.
2.Daniel Rajkumar .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to forthwith consider the representation dated 04.10.2012 by the petitioners and consequently take action against the 2nd respondent and demolish the illegal constructions put up by him adjacent to State Bank of Travancore building, Coimbatore Road, Pollachi, Coimbatore District pursuant to the notice issued by the first respondent dated 28.06.2010 in C.A.No.20 of 2010.

For Petitioner : Ms.AL.Gandhimathi
For Respondents : Mr.R.Vijayakumar
Addl. G.P. for R1
Mr.N.Umapathi for R2

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

On the issue of unauthorised construction, respondent No.2 seeks to embroil the dispute in a civil suit (O.S.No.532 of 2012 on the file of the District Munsif Court, Pollachi) for injunction filed, which is not maintainable, in view of the judgment of the First Bench of this Court in Consumer Action Group, rep. by its Trustee, Tara Murali, No.7, 4th Steet, Venkateswara Nagar, Adyar, Chennai-20 and others v. The State of Tamil Nadu, rep. by its Secretary to Government, Law Department, Fort St. George, Chennai-9 and others, reported in 2006 (4) CTC

483, wherein it is observed as under:-

"32.

(xv) No Civil Court shall entertain any suit or proceedings or Application in respect of the action taken by the CMDA or Corporation in respect of the illegal construction and encroachments on roads and pavements. All pending and future petitions filed/to be filed against CMDA and the Corporation relating to the illegal and unauthorised construction of buildings and or encroachment, and the demolition notice shall be placed before the special bench to be nominated by the Chief Justice."

2. We fail to appreciate as to how the Civil Courts are still entertaining the suits, despite the observations of the First Bench of this Court and thus, we call upon the Registrar - General of this Court once again to circulate the aforesaid judgment of the First Bench of this Court to the Subordinate Courts.

3. In view of the aforesaid, we see no reason why the second respondent's suit should be permitted to be maintained, which shall stand dismissed and the copy of this order be communicated to the District Munsif Court, Pollachi.

4. It is for the second respondent now to face the proceedings in terms of the notice already issued and the competent respondent authority will ensure that all proceedings are concluded within a maximum period of two months from today.

5. The writ petition, accordingly, stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr

To

1 The Commissioner,
Pollachi Municipality, Pollachi.

Copy to:

2 The District Munsif, Pollachi

3 The Registrar General
High Court, Madras 104

+1cc to Mr.AL. Ganthimathi, Advocate, S.R.No.72357

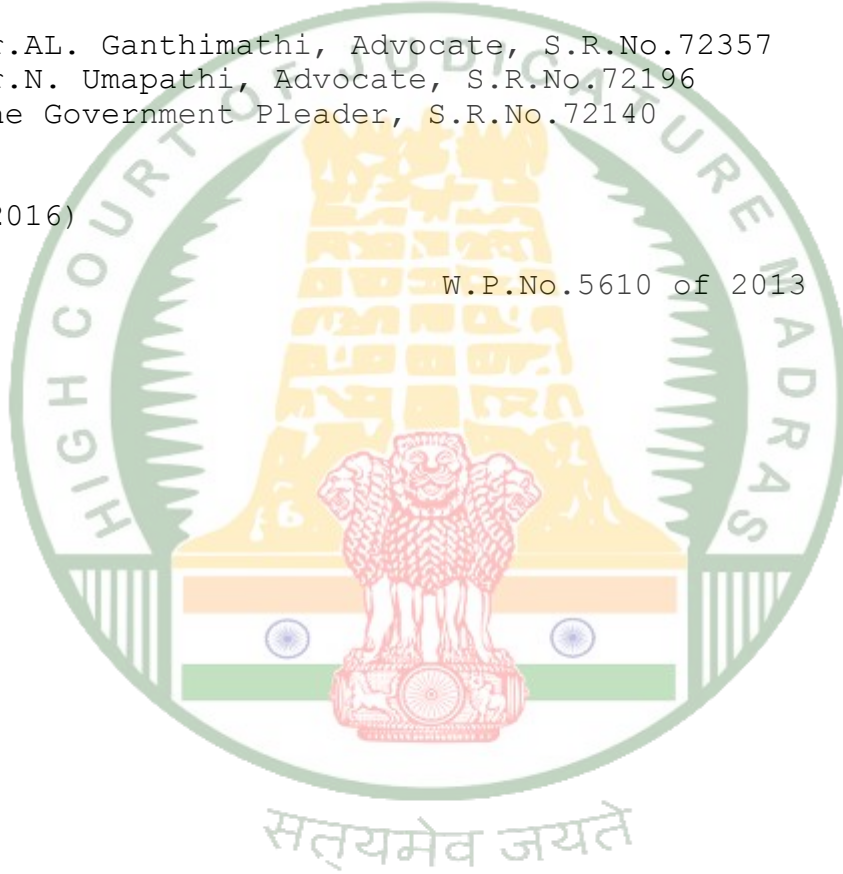
+1cc to Mr.N. Umapathi, Advocate, S.R.No.72196

+1cc to the Government Pleader, S.R.No.72140

sv(CO)

md(16/12/2016)

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