

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.06.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and

The Honourable Mr.Justice R.MAHADEVAN

W.P.No.19620 of 2013

&

MP No.1 of 2013

S.M.Mohammed Yusuf ... Petitioner

Versus

1.The Commissioner
Thiruvarur Municipality
Thiruvarur.

2.The Executive Authority
Thiruvarur Municipality,
Thiruvarur.

3.The Town Planner
Thiruvarur Municipality,
Thiruvarur.

4.The Commissioner for Municipal
Administration, 5th and 6th Floor,
Ezhilagam Complex,
Chennai 5.

5.Nattamai.
Mohideen Andavar Pallivasal
Kodikalpalayam, Thiruvarur.

6. The amil Nadu Wakf Board,
represented by Chief Executive Officer,
No.1, Jaffersyrang street,
Vallal Seethakadhi Nagar,
Chennai.

Kodikalpalayam,
Thiruvarur.

... Respondents

(R6 impleaded as per order dated
21.06.2016 by CJ & RMDJ)

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Mandamus, forbearing the respondents 1 to 4 from in any manner allowing or permitting the 5th respondent from putting up any illegal construction in Ward No.2, Block 11, T.S.617, 618, 620, 621, 622, 623, Kadaitheru, Kodikalpalayam without obtaining planning permission.

For Petitioner ::: Mr.N.A.Nissar Ahmed

For Respondents ::: Mr.S.T.S.Murthi
Special Government Pleader
for R.1 to R.4
Mr.A.Muthukumar for R.5

O R D E R

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

The allegation of the petitioner is that without permission of the Wakf Board, despite the property being Wakf property and without sanction of the plans, construction has been made on the property in question located at Ward No.2, Block 11, T.S.617, 618, 620, 621, 622, 623, Kadaitheru, Kodikalpalayam.

2. Learned counsel appearing for the 5th respondent managing the property, submits on the basis of affidavit that though plans were submitted to the first respondent, neither sanction was granted nor the plan was rejected and thus, the 5th respondent proceeded with the construction, which is on the ground floor, to prevent encroachment on the property. This ground floor is also stated to be only given to the Post Office without charges and out of two shops, one shop is given to the Civil Supplies Department for running a provision store at concessional rent. Learned counsel submits that a new committee has now been elected.

3. We consider it appropriate to implead the Wakf Board as the 6th respondent. The memo of parties be amended accordingly.

4. In so far as the plan submitted to the first respondent is concerned, the new Committee will follow up the matter as the plans submitted may have lapsed by time. Be that as it may, the first respondent also owes a duty to scrutinise the plan and take action on the request for sanction of plan.

5. The newly impleaded 6th respondent would also examine the issue about the user of Wakf property and take a decision on the

request of consent.

6. Both the first and 6th respondent would carry out the aforesaid exercise within a maximum period of three months of the date of the receipt of the order.

7. We are not inclined in the interregnum period to disturb the existing construction on account of the nature of user, it has been put to.

8. The writ petition accordingly stands disposed of, leaving the parties to bear their own costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ksr

To

- 1.The Commissioner, Thiruvarur Municipality, Thiruvarur.
- 2.The Executive Authority, Thiruvarur Municipality, Thiruvarur.
- 3.The Town Planner, Thiruvarur Municipality, Thiruvarur.
- 4.The Commissioner for Municipal Administration,
5th and 6th Floor, Ezhilagam Complex, Chennai 5.

1 cc to Mr.N.A.Nissar Ahmed, Advocate, sr.34189
1 cc to Mr.A.Muthukumar, Advocate, sr.34172

W.P.No.19620 of 2013

gj co
kra 13.07.2016