

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI  
and  
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.4899 of 2016  
and  
W.M.P.No.4252 of 2016

M/s.Ramaniyam Real Estates Pvt. Ltd.,  
rep. by its Managing Director  
V.Jagannathan ...Petitioner

Vs.

- 1.The Secretary to Government of  
Tamil Nadu,  
Housing and Urban Development  
Department,  
Fort St. George, Chennai - 9.
- 2.The Commissioner,  
Corporation of Coimbatore,  
Coimbatore.
- 3.The Assistant Commissioner,  
Central Zone,  
Corporation of Coimbatore,  
Coimbatore.

- 4.Huzefa M.Jodhpurwala
- 5.Munira H.Jodhpurwala
- 6.Murtaza M.Deesawala
- 7.Tasnim M.Deesawala
- 8.Siraj M.Tambawala
- 9.Murtuza S.Tambawala
- 10.Zuzar S.Tambawala
- 11.Taher Y.Gadhi
- 12.Khozem Y.Gadli
- 13.Zuzer Y.Gadli
- 14.Badrudhin Madraswala
- 15.Amina B.Madraswala
- 16.Yusuf D.Madraswala

17.Moiz and Company,  
No.7, Dr.Nanjappa Road  
(Jail Road), Coimbatore - 641 018.

18.Coimbatore Tools and Hardware  
Mart, No.7, Dr.Nanjappa Road  
(Jail Road), Coimbatore - 641 018.

19.Taher Pipe Distributors,  
No.7, Dr.Nanjappa Road  
(Jail Road), Coimbatore - 641 018.                      ..Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 to 3 to demolish the unauthorised, deviated construction put up at Door No.7, Dr.Nanjappa Road (Jail Road) in T.S.No.112/1 Part, Anupar Palayam Village, Coimbatore.

For Petitioner .. Mr.S.Sundaresan

For Respondents.. Ms.A.Srijayanthi,  
Spl. Govt. Pleader for R1  
Mr.Saravanan for R2  
Mr.AR.L.Sundaresan, Sr. Counsel  
for Mr.S.B.Viswanathan for R4 to R16

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

Ms.A.Srijayanthi, learned Special Government Pleader accepts notice on behalf of the first respondent. Mr.Saravanan, learned counsel accepts notice on behalf of respondents 2 and 3. Mr.AR.L.Sundaresan, learned senior counsel for Mr.S.B.Viswanathan, learned counsel accepts notice for respondents 4 to 16. Notice to respondents 17 to 19 is dispensed with, at this stage, as no adverse order is passed against them in this writ petition. Thus, with the consent of the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent, learned counsel for respondents 2 and 3 and the learned senior counsel for respondents 4 to 16, the writ petition is taken up for final disposal.

2.Seeking a direction against respondents 1 to 3 to demolish the unauthorised construction put up at Door No.7, Dr.Nanjappa Road (Jail Road) in T.S.No.112/1 Part, Anupar Palayam Village, Coimbatore, the instant writ petition is filed.

3.The brief facts are that the petitioner company is the owner of the property measuring 89 cents in T.S.Nos.112/1, 112/2A, 1/113A and 112/3 and respondents 4 to 16 are the owners of the adjacent property situated at Survey No.112/1. Respondents 4 to 16 have obtained planning permission for construction of retail shopping complex consisting of stilt floor + ground floor + first floor. Noticing the deviation in the setback area, the petitioner wrote a letter dated 29 August 2012 to the Assistant Commissioner of Corporation. A reply dated Nil September, 2012 was received by the petitioner, stating that their letter has been forwarded to the third respondent. Since no action was taken, the petitioner sent another letter dated 26 September 2012 to the third respondent. Thereafter, the Corporation issued a locking and sealing and demolition notice and the building was also locked and sealed. After some time, the building was de-sealed for rectification of defects but without rectifying the defects, respondents 4 to 16 started running the business. Inspite of repeated reminders by the petitioner, no action has been taken and therefore, the petitioner is before this Court with the aforestated prayer.

4.Pursuant to the notice, the second respondent Corporation has filed an affidavit stating that on inspection, it was found that the entire building in question was fully unauthorised and as such, the building has been locked and sealed.

5.Mr.AR.L.Sundaresan, learned senior counsel for respondents 4 to 16 would contend that the building may be reopened for a period of three days to remove the movables lying inside the building. For this purpose, liberty is granted to respondents 4 to 16 to make an application to the concerned authority. If on verification, it is found that certain movables are lying inside the building, respondents 4 to 16 may be permitted to remove the same within a period of three days and thereafter, the building shall remain under lock and seal. The authorities are further directed to take action as per law.

6.With the aforestated observation and direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Secretary to Government of  
Tamil Nadu,  
Housing and Urban Development  
Department,  
Fort St. George, Chennai - 9.

2.The Commissioner,  
Corporation of Coimbatore,  
Coimbatore.

3.The Assistant Commissioner,  
Central Zone,  
Corporation of Coimbatore,  
Coimbatore.

+lcc to Mr.S. Saravanan, Advocate, S.R.No.25586  
+lcc to Mr.S.B. Viswanathan, Advocate, S.R.No.25193  
+lcc to the Government Pleader, S.R.No.25458

TEJ(CO)  
EU(29/04/2016)

W.P. No.4899 of 2016



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