

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. No.8825 of 2016
and
W.M.P.No.7828 of 2016

C.A.Palanisamy .. Petitioner
Vs.

1. The District Collector,
Erode and District.
2. The Executive Engineer
(Water Resources Department),
Lower Bhavani Irrigation Division,
Public Works Department, Erode.
3. The Assistant Engineer
(Water Resources Department),
Irrigation Branch No.1,
Public Works Department,
Gobichettipalayam, Erode District.

4. Karuppusamy .. 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 consider the petitioner's representation dated 12.12.2014 within the time fixed by this Court and consequently direct the respondents 1 to 3 to restrain the fourth respondent from making any unauthorised construction in R.S.No.530 and 543 of Elathur Village, Gobichettipalayam Village, Erode District.

For Petitioner .. Mr.I.C.Vasudevan

For Respondents .. Ms.T.T.Girija,
Govt. Advocate for R1 to R3
Mr.K.Ramesh for R4

ORDER

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

With the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

2.The petitioner, who is stated to be a resident of the area in question, has come up with this writ petition, seeking a direction to respondents 1 to 3 to consider his representation dated 12 December 2014 and also to restrain the fourth respondent from making any unauthorised construction in R.S.Nos.530 and 543 of Elathur Village, Gobichettipalayam Village, Erode District.

3.It is the case of the petitioner that the land in question belongs to the second respondent and the fourth respondent along with other villagers encroached the said land and started constructing a temple without any permission. The petitioner made a representation dated 12 December 2014 to respondents 1 to 3. Since no action was taken, the petitioner is before this Court.

4.Taking note of the allegations made in the instant writ petition, this Court passed the following order:

"It is stated that the temple in question is being constructed in the Survey Nos.530 and 543 on L.B.P. Channel, Elathur Village, Gobichettipalayam Taluk, unauthorisedly and illegally, causing obstruction to the water flow. Issue notice to the respondents returnable in two weeks. Mrs.T.T.Girija, learned Government Advocate, accepts notice for RR 1 to 3. Private notice is permitted in respect of R4. The official respondents are directed to cause site inspection and on such inspection, if it is found that the construction is fully unauthorised on the water body, the same shall be stayed forthwith and a report to this effect shall be submitted within a period of two weeks. Post on 23.03.2016."

5.In response, the third respondent has filed counter affidavit, whereunder, it is stated that the area in question was inspected by the P.W.D. officials and stop work notice was also issued, granting two weeks' time to the fourth respondent to respond to the same.

6.The third respondent has expressed his inability to take consequential action on account of enforcement of model code of conduct of the Election Commission with effect from 04 March 2016.

7.We make it clear that the model code of conduct of the Election Commission shall not come in the way of enforcing the judicial order passed by us. Accordingly, on receipt of the response from the petitioner within a period of two weeks and on examination of the same, the authority is directed to take consequential action for removal of the unauthorised construction, if it is found that there is unauthorised construction, within a period of two weeks thereafter.

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

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

- 1.The District Collector,
Erode and District.
- 2.The Executive Engineer
(Water Resources Department),
Lower Bhavani Irrigation Division,
Public Works Department, Erode.
- 3.The Assistant Engineer
(Water Resources Department),
Irrigation Branch No.1,
Public Works Department,
Gobichettipalayam, Erode District.

+ 1 cc to Govt.Pleader SR 18721

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