



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) No.11766 of 2015
and
M.P (MD) No.1 of 2015

P.Chellapandian

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Deputy Director,
Madurai Zonal Town & Country Planning Department,
Hakkeem Road, Thallakulam,
Madurai.

3.The Executive Officer,
Batlagundu Town Panchayat,
Batlagundu,
Dindigul District.

4.Sathishkumar

5.Punithamani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to cancel the approval given by the second respondent vide his proceedings in Na.Ka.No.2379/2013-Ma.Ma.4, dated 16.12.2013, through which, Ka.Va.Na.Oo.Thu.E.(Ma.Ma.)No.18/2013 was assigned and further permission in Ka.Vi.No.98/2013-14, dated 20.12.2013, was given by the third respondent to construct a Hospital by the respondents 4 and 5.

For Petitioner : Mr.A.Jaya Ramachandran

For Respondents : Mr.C.Selvaraj,
Special Government Pleader
for R.1 to R.3

Mr.G.R.Swaminathan for R.4 & R.5



ORDER

(Order of the Court was made by **NOOTY.RAMAMOHANA RAO,J.**)

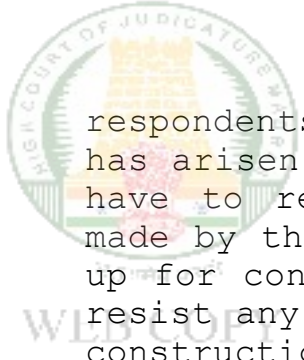
This writ petition is instituted seeking a writ of Mandamus to direct the respondents 1 to 3 herein to cancel the approval given by the second respondent - Deputy Director, Madurai Zonal Town and Country Planning Department, Madurai, to the respondents 4 and 5 allowing them to construct a Hospital/Nursing Home.

2. The petitioner herein has described himself as an Engineer and is carrying on construction work in and around Batlagundu and that he was a licensed building surveyor. In paragraph 3 of the affidavit filed in support of this writ petition, the petitioner has made it clear that the respondents 4 and 5 have approached him with a request to prepare a necessary building plan for construction of a Hospital at the premises bearing Door No.17-13-12, 12A, 12B, 12C, 12D and 12E at Gandhi Nagar Main Road, Batlagundu.

3. It is the assertion of the petitioner that he has drawn a suitable building plan. It appears that the second respondent has accorded necessary approval for undertaking the construction as per the building plan prepared by the writ petitioner and the necessary permission was accorded on 16.12.2013. It is the case of the petitioner that the respondents 4 and 5 started undertaking the construction of the building by deviating from the approved plan. Hence, the present writ petition is filed.

4. The apprehension of the writ petitioner was that in case, any serious action is to be initiated against the respondents 4 and 5 at any later point of time, by the public authorities or agencies, such as, Municipality or the Government, the petitioner herein is also likely to be proceeded against.

5. We find no reasonable basis whatsoever for the apprehension entertained by the writ petitioner. If the respondents 4 and 5 have started making construction of a building contrary to the approved building plan, it is for the local body which has sanctioned the necessary permission for construction of the building, who should deal with the same in accordance with law. That would be a matter between the respondents 4 and 5, and the local body. If the petitioner has any grievance against the respondents 4 and 5, for having not utilised his services any further, while undertaking the construction of the building, he cannot convert the same for the purpose of securing demolition of the building. The petitioner herein is obviously upset that his services are no longer utilised by the respondents 4 and 5 more
<https://hcservices.ecourts.gov.in/hcservices> factor. The above writ petition cannot be entertained by this Court for securing resolution of private disputes between the writ petitioner on the one hand and the



respondents 4 and 5 on the other. This apart, no cause of action has arisen for the petitioner for him to suspect that he will also have to render accountable and answerable for the constructions made by the respondents 4 and 5. As and when any such issue crops up for consideration, the writ petitioner can always successfully resist any attempt to rope him in and make him accountable for the constructions made by the respondents 4 and 5. Plainly, a person who has drawn designs or plans, is not responsible for the constructions made by the permit holder or someone else who has undertaken the constructions on his behalf.

6. Therefore, for the mere apprehension entertained by the writ petitioner, this Court cannot find any reason for entertaining the writ petition. We find no occasion to entertain this writ petition and we consider the same as a misconceived one.

7. Hence, this writ petition stands dismissed, leaving open the right of the petitioner herein to resist any attempt to fasten any liability or accountability on him, for the failure of the respondents 4 and 5, in not sticking to the plan drawn by the writ petitioner or the designs furnished by him in the matter of undertaking constructions by them. However, taking a lenient view, we refrain from imposing costs on the petitioner. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

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To

1.The District Collector,
Dindigul District, Dindigul.

2.The Deputy Director,
Madurai Zonal Town & Country Planning Department,
Hakkeem Road, Thallakulam,
Madurai.

3.The Executive Officer,
Batlagundu Town Panchayat,
Batlagundu, Dindigul District.

JAM/DB/1.09.16/3P-4C

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