



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

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W.P(MD)Nos.15991 of 2014, 5520/2011 and 498/2012
M.P.Nos.1 to 3/2014, 1 and 2 of 2011, 1,3 to 6 of 2012

W.P.No.15991/2014

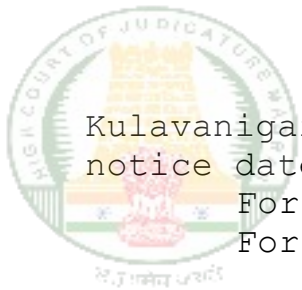
THARANI MAKKAL NALVAZHUVU SANGAM
REGISTRATION NO.94/2012
REP BY ITS PRESIDENT CHELLAPANDIAN
D.NO.6 PANDITHURAI 2ND STREET
KULAVANICKERPURAM PALAYANKOTTAI 627 002
TIRUNELVELI DISTRICT.

.. Petitioner in
W.P.No.15991 of 2014
Vs.

- 1 THE COMMISSIONER
TIRUNELVELI MUNICIPAL CORPORATION
TIRUNELVELI.
- 2 THE ASSISTANT COMMISSIONER
MELAPALAYAM REGIONAL OFFICE TIRUNELVELI
MUNICIPAL CORPORATION TRIUNELVELI.
- 3 THE EXECUTIVE ENGINEER
(PLANNING) TIRUNELVELI MUNICIPAL
CORPORATION TIRUNELVELI.
- 4 THE MEMBER SECRETARY
TIRUNELVELI LOCAL PLANNING AUTHORITY
TIRUNELVELI.
- 5 V. SOMASUNDARAM
6. T.N.KAMALUDEEN
7. T.N.ABDUL KHADER

8. T.N.MOHAMMED NASSER .. Respondents
(R6 to R8 has been impleaded
as per the order of this Court
dated 09.11.2016 in W.M.P.No.15210/2016)

Writ Petition is filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
to the respondents to forthwith demolish the illegal
construction put up by the 5th respondent at S.No.489/1A



Kulavanigarpuram village Thirunvelveli District pursuant to their notice dated 4.12.2010 and 30.12.2011.

For Petitioner : Mr.D.Saravanan
For Respondents : Mr.Aayiram K.Selvakumar for R1 to R3
Government Advocate
Mr.S.Chandrasekar for R4
Government Advocate
Mr.J.Ashok for
M/s.Jeyapaul Associates for R5
Mr.G.Mohan Kumar for R6 to R8

W.P.No.498/2012

V. SOMASUNDARAM

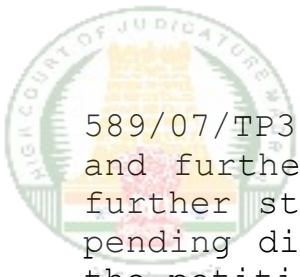
S/O.S.VADIVEL MURUGAN NO.138 PERUMALPURAM
TIRUNELVELI-7.

.. Petitioner in
W.P.No.498 of 2012
Vs.

- 1 THE COMMISSIONER
TIRUNELVELI MUNICIPAL CORPORATION
TIRUNELVELI.
- 2 THE ASSISTANT COMMISSIONER
MELAPALAYAM REGIONAL OFFICE TIRUNELVELI
MUNICIPAL CORPORATION TRIUNELVELI.
- 3 THE EXECUTIVE ENGINEER
(PLANNING) TIRUNELVELI MUNICIPAL
CORPORATION TIRUNELVELI.
- 4 THE MEMBER SECRETARY
TIRUNELVELI LOCAL PLANNING AUTHORITY, TRIVANDRUM ROAD,
TIRUNELVELI.
- 5 S.RAJA
S/O.SUBRAMANIYA PILLAI
DOOR NO.16 SOUTH MUTHARAMMAN KOIL STREET
PALAYAMKOTTAI, TIRUNELVELI DISTRICT
6. T.N.KAMALUDEEN
7. T.N.ABDUL KHADER
8. T.N.MOHAMMED NASSER .. Respondents

(R6 to R8 has been impleaded as per the order
of this Court dated 09.11.2016 in W.M.P.No.15211/2016)
(R5 has been impleaded as per the order of this Court
dated 01.08.2012 in M.P.No.2/2012)

Writ Petition is filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari
Mandamus calling for the records relating to the order passed by
the Ist Respondent herein in his proceedings in Ka.Vi.Noo.



589/07/TP3 dated 30.12.2011 (க.வி.எண்.589/07/டிபி3) and quash the same and further direct the Respondents 1 to 3 herein not to take any further steps in pursuance of the impugned order dated 30.12.2011 pending disposal of the application for revised plan presented by the petitioner before the respondents herein.

For Petitioner : Mr.M.Vallinayagam

senior counsel for Mr.D.Nallathambi

For Respondents : Mr.Aayiram K.Selvakumar for R1 to R3
Government Advocate
Mr.S.Chandrasekar for R4
Government Advocate
No appearance for R5
Mr.G.Mohankumar for R6 to R8

W.P.No.5520/2011

V. SOMASUNDARAM ..Petitioner in WP(MD)No.5520/2011

Vs.

1 THE COMMISSIONER
TIRUNELVELI MUNICIPAL CORPORATION
TIRUNELVELI.

2 Mr.Lenin
THE ASSISTANT ENGINEER (PLANNING)
TIRUNELVELI MUNICIPAL CORPORATION TRIUNELVELI.

3 THE MEMBER SECRETARY
TIRUNELVELI LOCAL PLANNING AUTHORITY, TRIVANDRUM ROAD.
TIRUNELVELI,

4. T.N.KAMALUDEEN

5. T.N.ABDUL KHADER

6. T.N.MOHAMMED NASSER .. Respondents

(R4 to R6 has been impleaded
as per the order of this Court
dated 09.11.2016 in W.M.P.No.15212/2016)

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 04.12.2010 passed by the 1st respondent in his proceedings in Ka.Vi.No.589/10/TP3 and quash the same and further forbearing the 1st and 2nd respondents from taking any further steps in pursuance of the final order dated 04.12.2010 pending disposal of the application for revised plan presented by the petitioner before the Local Planning Authority.



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For Petitioner	: Mr.M.Vallinayagam senior counsel for Mr.D.Nallathambi
For Respondents	: Mr.Aayiram K.Selvakumar for R1 Government Advocate Mr.S.Chandrasekar for R3 Government Advocate No appearance for R2 Mr.G.Mohankumar for R4 to R6

COMMON ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

Since the issue involved in all these writ petitions is one and the same, they were heard together and dispose of by this common order.

2. For the sake of convenience, we refer the parties to these cases in the array of parties as made in W.P.NO.15991/2014.

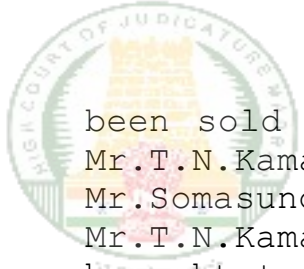
3. The 5th respondent Mr.Somasundaram was the owner of the land comprised in S.No.489/1A, Kulavanigarpuram Village, Tirunelveli District. After obtaining necessary permission from the authorities concerned, Mr.Somasundaram has constructed a building. It is alleged that the said building has been constructed in violation of the approved plan. On that allegation, Tharani Makkal Nalvazhvu Sangam has come up with a writ petition in W.P.No.15991/2014 seeking a direction to the official respondents to remove the said construction, which according to him, has been constructed in violation of the approved building plan.

4. The other writ petitions have been filed by Mr.Somasundaram. In W.P.No.5520/2011, he has challenged the proceedings of the Commissioner, Tirunelveli Municipal Corporation by his proceedings in 589/10/TP3, wherein, the Commissioner issued notice under Sections 282, 283 and 447 of the Tirunelveli City Municipal Corporation Act calling upon Mr.Somasundaram to stop further construction.

5. In W.P.No.498/2012, Mr.Somasundaram has challenged the proceedings of the 1st respondent in Ka.Vi.No.589/07/TP3 dated 30.12.2011, wherein, the Commissioner, Corporation of Tirunelveli has passed an order to lock and seal the said building, which according to the Commissioner has been constructed in violation of the approved building plan.

6. We have heard the learned counsel for the parties and we have also perused the records carefully.

7. It is brought to our notice that subsequent to the filing of these three writ petitions, the building in question has



been sold by Mr.Somasundaram to one Mr.T.N.Kamaludeen. Therefore, Mr.T.N.Kamaludeen has got impleaded himself in these petitions. Mr.Somasundaram has lost interest in the property, as, Mr.T.N.Kamaludeen is the owner of the property. It is also brought to our notice that Mr.Somasundaram has submitted a revised plan to the Commissioner, Tirunelveli Municipal Corporation for reviving the building plan constructed as per the Act. It is also brought to our notice that to consider the revised plan, some amount was ordered to be paid to the Commissioner, Tirunelveli, which has also been paid by Mr.Somasundaram. Thereafter, no order whatsoever, has been passed by the Corporation.

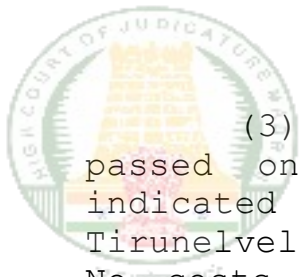
8. It is submitted by Mr.Aayiram K.Selvakumar, learned Government Advocate for the 1st respondent, that it is true that Mr.Somasundaram had made an application for revised plan for approval. But the Commissioner has got no power to consider the same, because the power is vested only with the Member Secretary, Tirunelveli Local planning Authority, if the value is less than Rs.25,000/- and if it exceeds, the jurisdiction lies with the Director, Town and Country Planning. He would submit that the first respondent would forward the revised plan submitted by Mr.Somasundaram either to the Member Secretary, Tirunelveli Local Planning Authority or to the Director of Town and country Planning, based on the jurisdiction. He would further submit that he would immediately forward the same without any loss of time.

9. The learned Government Advocate appearing for the Member Secretary would submit that if the revised plan is forwarded by the Commissioner, Tirunelveli Municipal Corporation, he would pass appropriate orders within a period of two months, after affording sufficient opportunity to the parties concerned including Mr.T.N.Kamaludeen and if the jurisdiction lies with the Director of Town and Country Planning, the Director would pass final orders in this regard within a period of two months. The said statement is also recorded.

10. In view of the above factual position, we dispose of all the three writ petitions with the following directions:

The first respondent shall forward the revised building plan submitted by Mr.Somasundaram within one week from the date of receipt of a copy of this order either to the Member Secretary, Tirunelveli Local Planning Authority or to the Director of Town and Country Planning subject to the jurisdiction concerned, as the case may be.

(2) It is further directed that the authority to whom the revised plan is forwarded by the Commissioner, Tirunelveli Municipal Corporation, be it the Member Secretary, Tirunelveli Local Planning Authority or the Director of Town and Country Planning, shall pass final orders in the matter, after affording opportunity to Mr.Somasundaram as well as T.N.Kamaludeen, within a period of three months from the date of receipt of the file.



(3) It is further directed that until further order is passed on the revised plan by the authority concerned, as indicated above, there shall be no demolition effected by the Tirunelveli Municipal Corporation or any other authority. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

- 1 THE COMMISSIONER
TIRUNELVELI MUNICIPAL CORPORATION
TIRUNELVELI.
- 2 THE ASSISTANT COMMISSIONER
MELAPALAYAM REGIONAL OFFICE TIRUNELVELI
MUNICIPAL CORPORATION TRIUNELVELI.
- 3 THE EXECUTIVE ENGINEER
(PLANNING) TIRUNELVELI MUNICIPAL
CORPORATION TIRUNELVELI.
- 4 THE MEMBER SECRETARY
TIRUNELVELI LOCAL PLANNING AUTHORITY, TRIVANDRUM ROAD
TIRUNELVELI-2
- 5 THE DIRECTOR ,
TOWN AND COUNTRY PLANNING AUTHORITY, TIRUNELVELI
- 6 THE ASSISTANT ENGINEER,
(PLANNING), TIRUNELVELI MUNICIPAL CORPORATION,
TIRUNELVELI

+4ccs to Mr.AAyiram K.Selvakumar, Advocate, SR.No.67367

+3 ccs to The Special Government Pleader, SR.Nos.67462,67455 and
67454

+One cc to Mr.J.Ashok, Advocate, SR.No.67259

+One cc to Mr.T.R.Jeyapalam, Advocate, SR.No.67354

RR

RL/16C/6P/RR/28.12.2016

ORDER MADE IN
W.P(MD)Nos. 15991 of 2014, 5520/2011 and 498/2012
M.P.Nos.1 to 3/2014, 1 and 2 of 2011, 1,3 to 6 of 2012

09.11.2016