



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) No.22981 of 2015

and

M.P (MD) Nos.1 to 3 of 2015

and

W.M.P (MD) No.465 of 2016

Chitra Nursing Home,
No.626, Tenkasi Road,
Rajapalayam - 626 117.
Virudhunagar District,
represented by
Dr.A.B.Gopala Murugan

... Petitioner

Vs.

1.The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

2.The Junior Engineer (South),
Tamil Nadu Electricity Board,
Ponnagaram,
K.R.Nagar Post,
Rajapalayam,
Virudhunagar District - 626 117.

3.The Fire Officer,
Tamilnadu Fire Service,
Mudangiyar Road,
Near Taluk Office Building,
Rajapalayam - 626 117.

4.Venkateswaran

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent herein to demolish the unauthorised portion of the construction activities of the fourth respondent put up at Door Nos.619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 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2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558



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For Petitioner

: M/s.B.Ravi Raja &
Mr.R.R.Kannan

For Respondents

: Mr.N.Dilip Kumar for R.1
Mr.Y.Prakash for R.4

No appearance for R.2 & R.3

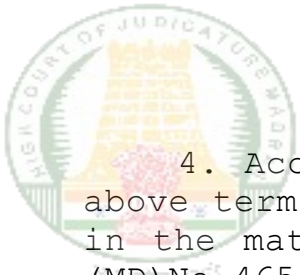
ORDER

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

The petitioner, a Nursing Home at Rajapalayam, sought for a writ of Mandamus, directing the first respondent herein to demolish the unauthorised portion of the construction undertaken by the fourth respondent, it's neighbour. There are disputes between the parties which once before, have been debated before this Court. But however, it is, now, brought to our notice that the fourth respondent has re-submitted the application seeking approval for the revised building plan and it was re-submitted on 11.08.2016 with the local body. The local body, in turn, is required to forward the said application to the Deputy Director of Town and Country Planning, Madurai, who is the competent authority to deal with it and pass appropriate orders either approving or declining to approve the revised building plan.

2. In case, the revised building plan gets approved, then, the question of treating the constructions made by the fourth respondent as offending, would not arise. The writ petitioner will have to agitate the correctness or otherwise of any such approval. Similarly, if the revised building plan is not approved, it shall be open to the fourth respondent to seek appropriate remedy with regard to the constructions made by him.

3. In view of the interestedness of both the parties in the proceedings dealing with the revised building plan, it would only be wholly appropriate for the competent authority, namely, the Deputy Director of Town and Country Planning, Madurai, to afford an opportunity to both sides to canvass their view points before it and take the same into consideration and pass appropriate orders. Let this exercise be completed as expeditiously as possible, within a period of three months from the date of receipt of a copy of this order. It is needless for us to note that in case, any of the parties seek to produce such material as it is considered necessary and appropriate by them, which might help the competent authority to firm up it's opinion. They are at liberty to do so. It is also needless to observe that the copy of the order that would be passed by the competent authority shall be communicated to both sides.



4. Accordingly, this writ petition stands disposed of, in the above terms, leaving open the contentions canvassed by rival sides in the matter. Consequently, M.P(MD)Nos.1 to 3 of 2015 and W.M.P (MD)No.465 of 2016, are closed. No costs.

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Sd/-
Assistant Registrar(As)

Sub Assistant Registrar

To

1.The Municipal Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

2.The Junior Engineer (South),
Tamil Nadu Electricity Board,
Ponnagaram,
K.R.Nagar Post,
Rajapalayam,
Virudhunagar District - 626 117.

3.The Fire Officer,
Tamilnadu Fire Service,
Mudangiyar Road,
Near Taluk Office Building,
Rajapalayam - 626 117.

+1cc to Mr.N.Dilipkumar, Advocate SR.No.48332
+1cc to Mr.R.R.Kannan, Advocate SR.No.48507
+1cc to MR.Y.Prakash, Advocate SR.No.48799

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and
M.P (MD) Nos.1 to 3 of 2015
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