

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM :

The Hon'ble MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P.No.4114 of 2017

V.Rathinam

.. Petitioner

-vs-

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai-600 003.

2.The Zonal Officer,
Zone 10,
Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.

3.The Assistant Engineer,
Division No.152, Zone 10,
Corporation of Chennai,
Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.

4.K.Loganathan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing 1 to 3 respondents to demolish the unauthorised construction put up by the fourth respondent adjacent to the Jai Shree Arunachala Temple and Baktha Sabha, Arunachalampuram, Adyar.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.R.Arunmozhi for R1 to R3

* * * * *

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner seeking a writ of mandamus directing respondents 1 to 3 to demolish the unauthorised construction put up by the fourth respondent adjacent to Jai Shree Arunachala Temple and Baktha Bajana Sabha, Arunachalapuram, Adyar, Chennai.

2. It is the case of the petitioner that the fourth respondent has put up an unauthorised construction adjacent to Jai Shree Arunachala Temple and Baktha Bajana Sabha. The petitioner has filed W.P.No.7352 of 2008 for removal of unauthorised construction. This Court vide order dated 26.6.2009, directed the Corporation to conduct enquiry and remove the encroachment, if any. Since the Corporation has not taken action, the petitioner filed Contempt Petition No.658 of 2011. The said Contempt Petition was closed vide order dated 27.6.2011 by recording the submission of the learned counsel for the Corporation that the unauthorised construction will be removed within a period of two months. The fourth respondent has filed a civil suit - O.S.No.6264 of 2011 on the file of the XVI Additional Judge, City Civil Court, Chennai for declaration and permanent injunction and the said suit was dismissed for default. Thereafter, the petitioner made several representations to the respondent authorities to demolish the unauthorised construction. Since no action was taken by the authorities, the petitioner has filed the present petition seeking to demolish the unauthorised construction.

3. Heard Mr.D.Rajagopal, learned counsel for the petitioner and Mr.R.Arunmozhi, learned counsel appearing for respondent Nos.1 to 3 for some time.

4. It appears that the fourth respondent has encroached upon the vacant area adjacent to Jai Shree Arunachala Temple and Baktha Bajana Sabha, Arunachalapuram, Adyar, Chennai and put up an unauthorised construction. It also appears that the petitioner, who is incharge of the temple affairs had earlier filed two writ petitions (W.P.Nos.7352 of 2009 and 6298 of 2015) for removal of the unauthorised construction put up by the fourth respondent. When W.P.No.6298 of 2015 was taken up for hearing, the learned counsel appearing for the Corporation informed the Court that they locked and sealed the premises. Recording the said submission, this Court vide order dated 23.4.2015 dismissed the writ petition holding that since the premises in question has been locked, the authorities are required to take the consequential action in accordance with law.

5. On a perusal of the typed set of papers, we find that on 10.11.2015, the petitioner has submitted a representation to the respondents 2 and 3 seeking demolition of the unauthorised

construction put up by the fourth respondent. Since no action was taken by the respondent authorities, the petitioner again sent two more representations to the respondent authorities. Despite the receipt of those representations and also the undertaking given by the learned counsel for the Corporation in W.P.No.6298 of 2015 that the authorities will take the consequential action, nothing has been done so far, which necessitated the petitioner for filing the present petition.

6. The learned counsel for the respondent Corporation submits that they will take care of this matter and do the needful.

7. In view of the aforesaid, we direct the respondents to take action for removal of the unauthorised construction in accordance with law, after notice to all concerned within a period of two months from the date of receipt of copy of this order.

8. The writ petition, accordingly, stands disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Corporation of Chennai, Ripon Building,
Park Town, Chennai-600 003.
- 2.The Zonal Officer,Zone 10,Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.
- 3.The Assistant Engineer, Division No.152, Zone 10,
Corporation of Chennai
Dr.Muthulakshmi Salai, Adyar, Chennai-600 020.

+1cc to M/s. D. Rajagopal, Advocate, S.R.No.10992
+1cc to M/s. R. Arunmozhi, Advocate, S.R.No.10956

KJ(CO)
EU 02.03.17

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