

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.4374 of 2017

and

W.M.P.No.4565 of 2017

M.Mohan

Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.
- 2.The Regional Deputy Commissioner (North),
Town Planning Section,
O/o Regional Deputy Commissioner (North)
Basin Bridge Road, Washermenpet,
Chennai - 600 021.
- 3.The Executive Engineer,
(Building & Planning permit)
Zone III, Division 7, Ward 28,
Corporation of Chennai,
Madhavaram,
No.1, Thattankulam Street,
Madhavaram, Chennai - 600 060.
- 4.Junior Engineer,
(Building & Planning permit)
Zone III, Division 7, Ward 28,
Corporation of Chennai,

Madhavaram,
No.1, Thattankulam Street,
Madhavaram, Chennai - 600 060.

5. M.Murugan

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents 1 to 4 to take action on the petitioner representation dated 2.8.2016 as per the provision constituted under Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.K.Krishnan

For Respondents : Mr.R.Arunmozhi
for respondents 1 to 4

ORDER

(Order of the Court was made by the Acting Chief Justice)

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus directing the respondents 1 to 4 to take action on the representation of the petitioner dated 02.8.2016 as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

2. It is the case of the petitioner that he is a neighbour of the fifth respondent and the fifth respondent had put up construction for commercial purpose without planning permission. The fifth respondent is dumping jelly, sand and cement near his house and the dust which flies in the air causes several air pollution. The noise exhibited by jelly stones during loading and unloading is causing severe headache to the residents of the said locality. On 02.8.2016, the petitioner sent a representation to respondents 2 to 4 to take action against the illegal construction put up by the fifth respondent. However, no action was taken by the respondent authorities. Hence the writ petition is filed seeking the relief stated supra.

3. Heard Mr.K.Krishnan, learned counsel for the petitioner and Mr.R.Arunmozhi, learned counsel for respondents 1 to 4.

4. The contention of the petitioner is that the fifth respondent, who is a immediate neighbour had put up construction without planning permission and is dumping the building materials near the house which has caused severe air pollution and noise etc.

5. The main grievance of the petitioner is that the fifth respondent is causing nuisance by dumping the building materials. The petitioner and other residents are not able to tolerate such nuisance. Therefore, in order to live peacefully, the petitioner has approached this Court.

6. With regard to allegation of unauthorised construction is concerned, the learned counsel for the Corporation submits that the respondent/authorities have already issued notice for stop work notice/calling for approved plan. In fact, the respondent/authorities have also issued locking and sealing and demolition notices on 27.2.2017.

7. We are of the view that the dispute between the petitioner and the private respondent regarding nuisance is civil in nature and the petitioner must approach the Civil Court for relief. The allegation of nuisance alleged by the petitioner is a matter of evidence, which cannot be decided in this writ petition.

8. The writ petition, accordingly, stands disposed of. However, this will not preclude the respondent/authorities from proceeding in accordance with law based on the notices already issued. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To:

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.
- 2.The Regional Deputy Commissioner (North),
Town Planning Section,
O/o Regional Deputy Commissioner (North)
Basin Bridge Road, Washermenpet,
Chennai - 600 021.

+lcc to M/S. R. Arunmozhi, SR. 14789

+lcc to Mr. K. Krishnan, Sr. 15261

W.P.No.4374 of 2017

AD(CO)

VR(20/03/2017)