

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Cont.P.No.1348 of 2016

N.Varadarasu ... Petitioner

Versus

Sri.Vijaya Nehru,
The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar,
Bhoomianpet, Puducherry. ... Respondents

PRAYER:- The Contempt Petition filed under Section 11 of Contempt of Court Act, to punish the respondent for willful disobedience of the order passed against respondent in the order of the Court in WP.No.39542 of 2015 dated 16.12.2015.

For Petitioner :Mr.G.Thangavel

For Respondent :Mr.C.T.Ramesh, AGP (Pondicherry)

ORDER

(Order of this Court was made by M.SATHYANARAYANAN, J.)

The petitioner alleging non compliance and willful disobedience of the order dated 16.12.2015 in

WP.No.39542 of 2015 came forward with this contempt petition.

2. The petitioner filed the said writ petition praying for issuance of writ of mandamus directing the respondent herein to effectively exercise the power of stopping the unauthorised construction with reference to the proceedings dated 02.11.2015 with the help of the Inspector of Police, Danvandri Nagar, Korimedu Police Station, Puducherry, without any further delay within the stipulated period by strictly complying with the statutory provisions of the Puducherry Town and Country Planning Act, 1969.

3. The learned counsel appearing for the petitioner would submit that admittedly, the religious structure in the form of temple is totally unauthorised and despite this Court in the above cited writ petition, has recorded the finding that once there is an unauthorised construction or encroachment, the same shall be removed in accordance with law within a stipulated time and they fail to act upon the undertaking, which form part of the above said order and as such, they are guilty of willful disobedience of

the order passed by this Court.

4. Per contra, Mr.C.T.Ramesh, learned Additional Government Pleader (Pondicherry) has invited the attention of this Court to the compliance affidavit and would submit that the construction is already in a patta land and however, it has been done without authorization as per the provisions of Puducherry Building Bye-laws and Zoning Regulations, 2012 and having noted that construction was in process, demolition notice was issued to the temple authorities on 25.01.2016 with specific directions to remove the excess portion of the Temple Pragaram, over and above the permissible coverage as per Puducherry Building Bye-Laws and Zoning Regulations, 2012 and pursuant to the same, temple authorities have filed an appeal under Section 44 of Puducherry Town and Country Planning Act, 1969 and it was also given disposal by directing the Puducherry Planning Authority to issue building plan approval and since the proposal is only for demolition and reconstruction of old temple and at the time of reconstruction if any deviation is noted, action would be taken in accordance with law.

5. In the light of the stand taken by the respondent, this Court is of the view that there is no willful non compliance of the orders passed by this Court and therefore, the contempt petition stands closed and if the petitioner notes any deviated construction on the part of temple authority, he is always at liberty to workout his remedy in accordance with law before the competent forum.

sk

SD/
ASSISTANT REGISTRAR(OS-I)

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)
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सत्यमेव जयते

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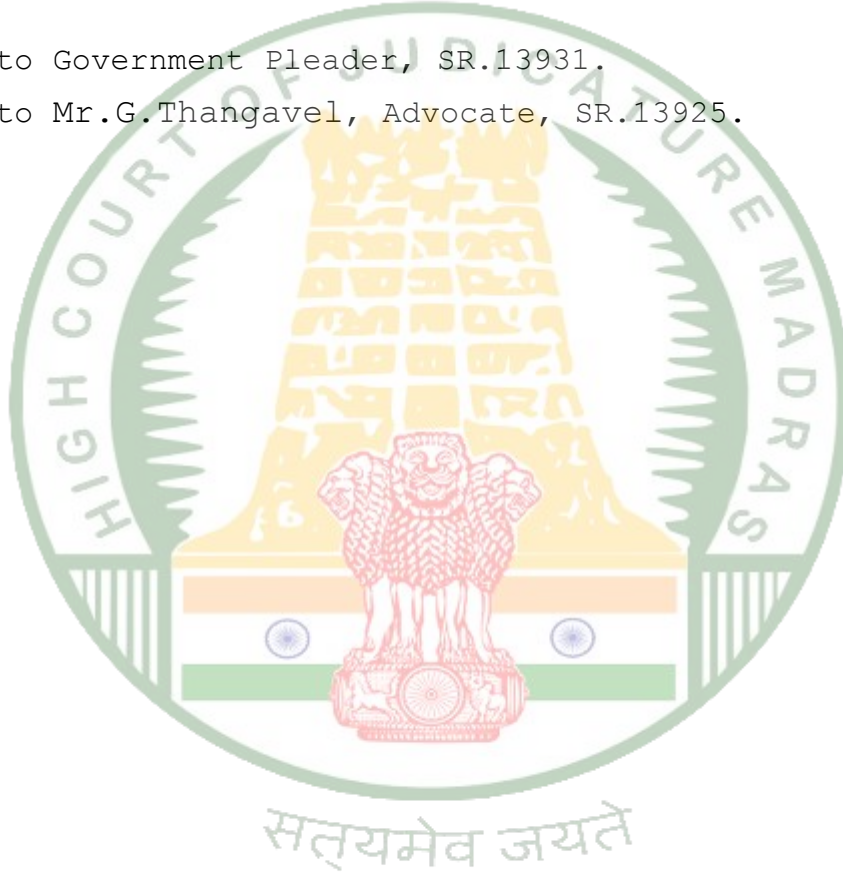
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To

Sri.Vijaya Nehru,
The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar,
Bhoomianpet, Puducherry.

One CC to Government Pleader, SR.13931.

One CC to Mr.G.Thangavel, Advocate, SR.13925.



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