

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP No.32832/2017

P.Selvarajan

..

Petitioner

Vs

1.The Commissioner

Directorate of Town and Country Planning
Chengalvarayan Building, 4th Floor
807, Anna Salai, Chennai 600 002.

2.The Deputy Director,

Directorate of Town & Country Planning
Salem Region, 6, Sannathi Street
Subramaniya Ngar, Suramangalam,
Salem 636 005.

3.The Commissioner

Attur Municipality
Municipality Office, Attur 636 102.

4.R.Vasanthan

5.V.Sriram

..

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd and 3rd respondents herein to comply the order dated 27.09.2017 made in Ka.A.No.84/2010/F1 passed by the 3rd respondent herein and to take action for demolition of the huge unauthorised construction of the 4th and 5th respondent premises which is situated in Door No.11/6, 13/7,

15/7 in TS.Nos.5, 6, 7 Block No.13, Ward No.C, Ramalinga Vallalar Street adn Attur Municipality and Town, Salem District based on the petitioner representation dated 26.09.2017.

For petitioner : Mr.A.Rajakumar
 For R1&R2 : Mr.A.N.Thambidurai, Spl.GP
 For R3 : Mr.M.Digvijaya Pandian, AGP
 For RR 4 & 5 : Mr.K.Mohanamurali

ORDER

[Order of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 and 2 ; Mr.M.Digvijaya Pandian, learned Additional Government Pleader accepts notice on behalf of the 3rd respondent and Mr.K.Mohanamurali, learned counsel accepts notice on behalf of the respondents 4 and 5.

2 The petitioner, in the affidavit filed in support of this writ petition would aver among other things that he is a resident of Door No.19, Muniyan Street, Pudupet Post, Attur Taluk, Salem District and according to him, the respondents 4 and 5 are the absolute owners of the four floors commercial building bearing Door No.11/6, 13/7 and

15/7, in TS.Nos.5, 6 and 7, Block No.13, Ward No.C, Ramalinga Vallalar

Street, Attur Town, Salem District. The petitioner would further aver that the respondents 4 and 5 originally applied for planning permission for construction of a commercial building with Ground + First Floors only on the land admeasuring to an extent of 1805 sq.ft., and in utter violation of the sanctioned plan, had put up two more floors of commercial building, with a total of four floors with the plinth area of 2329 sq.ft., and in the process, has also committed set back violation and in this regard, the petitioner submitted very many representations.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that in response to various representations submitted by the petitioner, the 3rd respondent has issued the notice dated 22.08.2017 to the respondents 4 and 5 stating that apart from the deviation of the sanctioned plan, they had put up an additional construction of 2329 sq.ft., and according upon them to remove the same within seven days from the date of receipt of the notice and it is also followed by yet another notice bearing No.K.V.84/2010/F1 dated 27.09.2016 u/s.205[3] of the Tamil Nadu District Municipalities [Amended] Act, 1920 and it was received and acknowledged by the 4th respondent on 12.10.2017 and thereafter, the 3rd respondent did not pursue further and the

unauthorised construction still exist and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

4 This Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.M.Digvijaya Pandian, learned Additional Government Pleader appearing for the 3rd respondent would submit that subject to legal interdict if any, the 3rd respondent would proceed further with regard to the offending construction put up by the respondents 4 and 5.

5 Mr.K.Mohanamurali, learned counsel appearing for the respondents 4 and 5 would submit that the deviation is minor in nature and it is also within condonable limits and the respondents 4 and 5 had already an application for regularisation of the offending construction and till such time, prays for deferment of further proceedings by the 3rd respondent.

6 The Court has considered the rival submissions and also perused the materials placed before it.

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 3rd respondent to proceed further in terms of the two notices dated 22.08.2017 and 27.09.2017 respectively, subject to the legal interdict, if any, or pendency of the application for regularisation, after putting the petitioner as well as the respondents 4 and 5 on notice and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the respondents 4 and 5 herein.

8 The writ petition stands disposed of with the above direction. No costs.

सत्यमेव जयते

[M.S.N.,J]

[P.R.M., J]

18.12.2017

Internet : Yes
AP

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M.SATHYANARAYANAN.,J.,
and
P.RAJAMANICKAM.,J.,

AP

To

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