

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.33215 of 2017

S.Siva Sivan

... Petitioner

vs.

- 1.The District Collector,
Thiruvallur District,
Thiruvallur.
- 2.The Commissioner,
Avadi Municipality,
Avadi, Chennai - 600 062. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to consider the petitioner's representation dated 01.03.2016 to take action against the occupants of Devi Homes for spilling / overflow of sewerage water, toilet water and mess into the Kurunchi Street, Marshal Nesamani Nagar, S.M.Nagar Post, Avadi, Chennai - 600 062 in accordance with law within the stipulated time fixed by this Court.

For Petitioner : M/s.K.Balaji

For Respondents : Mr.S.Diwakar, Spl.G.P.

O R D E R

The petitioner has come forward with this writ petition to direct the respondents to consider the petitioner's representation dated 01.03.2016 to take action against the occupants of Devi Homes for spilling / overflow of sewerage water, toilet water and mess into the Kurunchi Street, Marshal Nesamani Nagar, S.M.Nagar Post, Avadi, Chennai - 600 062 in accordance with law within the stipulated time to be fixed by this Court.

2. The case of the petitioner is that he is the owner of the property bearing No.466B, Kurunchi Street, Poopozhil Nagar, S.M.Nagar Post, Avadi, Chennai - 600 062 and he is living with his family there for the past 12 years. During the year 2013, an apartment consisting of 20 flats, was constructed opposite to his house, by one M/s.Devi Homes, without proper septic tank facility. Hence, the overflowing drainage water from the Devi

Homes Flats reached the road opposite to the petitioner's house and stagnated. The stagnated sewerage water in the street creates bad smell and it is the breeding place for mosquitoes and hence, the people in that area were affected from communicable diseases, viz., Dengue, Malaria etc. Therefore, the petitioner has given a representation to the 2nd respondent-Municipality to rectify the defect and take action against the occupants of Devi Homes. As no action was taken, the petitioner has come forward with this writ petition with the prayer stated supra.

3. Heard both sides and perused the materials available on record.

4. Considering the facts and circumstances of the case, without going into the merits of the case, the above said representation of the petitioner may be considered after hearing both parties. The petitioner ought to have made the occupants of the Devi Homes as parties to the proceedings. Since it is only a case of representation being disposed of, the persons who are likely to be affected shall be heard, before deciding the representation dated 01.03.2016, and only thereafter, a decision shall be taken. This Court makes it very clear that in case of adverse orders being passed against the petitioner, unless those persons or other persons who are likely to be affected are made as a parties, this Court will not only reject the request of the petitioner, but also impose heavy costs. The second respondent is directed to consider the said representation of the petitioner within a period of four weeks from the date of receipt of a copy of this order, after hearing the parties.

With the above observation and representation, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

pvs

To:

1. The District Collector, Thiruvallur District, Thiruvallur.
2. The Commissioner, Avadi Municipality, Avadi, Chennai.

+lcc to Mr.K.Balaji, Advocate, S.R.No.91166
+lcc to the Government Pleader, S.R.No.91982

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(CO)

RRK(22/01/2018)