

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.24271 of 2017
and W.M.P.No.25655 of 2017

G. John Britto

.. Petitioner

vs

1.The Chennai Metropolitan Development Authority,
Rep.by its Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

2.The Pallavaram Municipality,
Rep.by its Commissioner/Special Officer,
3rd Main Road, Pallavapuram,
New Colony, Chromepet,
Chennai-600 044.

3.Mr.P. Ramakrishnan

4.Mrs. R. Valli Devi

5.Mr. R. Vasanthakumar

WEB COPY

6.The Director,
Fire and Rescue Services Department,
Government of Tamil Nadu,
No.1, Greams Road, Chennai-600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from in any way putting up construction over the property comprised in Survey Nos.411/2, 411/3, 411/2A6, Zamin Pallavaram Village, Tambaram Taluk or using the said building as a Kalyana mandapam or for any other commercial purpose without obtaining prior building and planning approval from the 1st respondent in accordance with law, and consequently direct the respondents 1 and 2 to demolish the unauthorised construction put up by the respondents 3 to 5 in the property comprised in Survey Nos.411/2, 411/3, 411/2A6, Zamin Pallavaram Village, Tambaram Taluk.

For Petitioner : Mr. Richardson wilson

For Respondents : Mr.N. Sampath for R1
Mr. P. Srinivas for R2
Mr. A. N. Thambidurai
Special Government Pleader for R6

WEB COPY
ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims that he is a resident of Door No.44, 7th A Street, Chambers Colony, Chrompet, Chennai-44 and he has put up superstructure strictly in accordance with the planning permission without any deviation. The petitioner would further aver that opposite to his residence, there is a property comprised in Survey No.296, Zamin Pallavaram, Tambaram and the street which is the access road to the said property is a narrow one that is often congested. The petitioner further submit that on the said land, a superstructure has been located and from the month of July 2017 onwards, the respondents 3 to 5 started putting up huge construction, consisting of ground + 3 floors and it has sought to be used as a "Marriage hall". The rough estimate of the carpet area would be 20,000Sq.Ft. The respondents 3 to 5 have also erected a hoarding at the site indicating that the Marriage Hall as "Vasantham A/C Thirumana Mandapam" . The petitioner in this regard has submitted a representation dated 09.08.2017 to respondents 1 and 2 and inspite of receipt and acknowledgment, no action has been taken whatsoever and hence came forward to file this writ petition.

3. Mr.Richardson Wilson, the learned counsel appearing for the petitioner has drawn the attention of this court to the violation of the plan

of Kancheepuram local planning area issued in G.O.Ms.No.130, Housing and Urban Development (UD 4-1) Department, dated 14.06.2010 and would submit that the said Government Order provides development control regulation for Kancheepuram local town planning area and in utter disregard and violation of the same, the respondents 3 to 5 had put up a huge construction without obtaining any planning permission and also started using it as marriage hall and further, used it as a lodge and residence for the locality.

4. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the judgment of Honourable Supreme Court of India reported in **2013 [5] SCC 336 [Dipak Kumar Mukherjee Vs. Kolkata Municipal Corporation and others]** and the Honourable Supreme court has taken note of illegal and unauthorised construction and has observed as follows:

"Illegal and unauthorised constructions of buildings and other structures not only violate the municipal laws and the concept of planned development of the particular area but also affect various fundamental and Constitutional rights of other persons. The common man feels cheated when he finds that those making illegal and unauthorised constructions are supported by the people entrusted with the duty of preparing and executing master plan/development plan/zonal plan. The failure of

the State apparatus to take prompt action to demolish such illegal constructions has convinced the citizens that planning laws are enforced only against poor and all compromise are made by the State machinery when it is required to deal with those who have money power or unholy nexus with the power corridors. Therefore, there should be no judicial tolerance of illegal and unauthorised constructions by those who treat the law to be their subservient.

While preparing master plans/Zonal plans, the Planning Authority takes into consideration the prospectus of future development and accordingly provides for basic amenities like water and electricity lines, drainage, sewerage, etc. development which is beneficial to the public but also places unbearable burden on the basic amenities and facilities provided by the public authorities. At times, construction of such buildings becomes hazardous for the public and creates traffic congestion. Therefore, it is imperative for the public authorities concerned not only to demolish such construction but also impose adequate penalty on the wrongdoer."

5. In sum and substance, it is the submission of the learned counsel appearing for the petitioner that in the light of Development Control Regulation pertaining to Kancheepuram Local Planning Area coupled with ratio laid down in the above cited decision, the respondents are under obligation to take immediate and necessary action to abate the nuisance caused by the respondents 3 to 5 in the unauthorized Marriage Hall and prays for appropriate relief.

6. Mr. N. Sampath, learned standing counsel appearing for the first respondent and Mr. A.N. Thambidurai, learned Special Government Pleader appearing for the second respondent would submit that after putting the concerned persons on notice, action would be taken in accordance with law.

7. This Court has considered the rival submissions and also perused the materials placed before it.

8. This Court has considered the rival submissions and also perused the materials placed before it.

9. Though the petitioner prays for a larger relief, this Court in the light of the above facts and circumstances and without going to the merits of the claims projected by him either by representation or in the writ petition, directs the 1st respondent to cause inspection of the offending construction, said to have been put up by respondents 3 to 5, after putting the petitioner as well as private respondents on notice and thereafter, consider and dispose of the petitioner representation dated 09.08.2017 on merits and in accordance with law, within a period of ten weeks from the

date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the respondents 3 to 5.

10. The writ petition stands disposed of with the above direction.

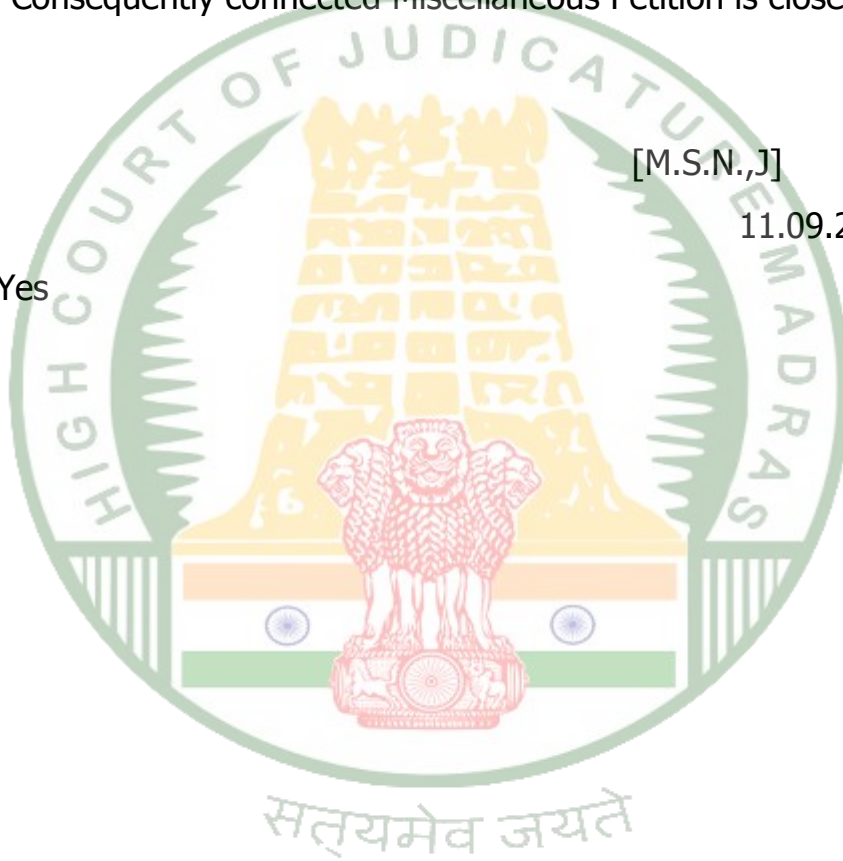
No costs. Consequently connected Miscellaneous Petition is closed.

[M.S.N.,J]

[N.S.S.,J]

11.09.2017

Internet:Yes
sk/rpl



WEB COPY

M.SATHYANANARAYANAN.,J
AND
N.SESHASAYEE.,J

sk/rpl

To

- 1.The Member Secretary,
The Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.
- 2.The Pallavaram Municipality,
Rep.by its Commissioner/Special Officer,
3rd Main Road, Pallavapuram,
New Colony, Chromepet,
Chennai-600 044.
- 6.The Director,
Fire and Rescue Services Department,
Government of Tamil Nadu,
No.1, Greams Road, Chennai-600 006.

WEB COPY

W.P.No.24271 of 2017

11.09.2017