

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.14975/2017 & WMP.No.16216/2017

P.Sankitha

..

Petitioner

Vs

- 1.The Child Secretary to Government
Union of India, Puducherry-605001.
- 2.The District Collector
The Office of District Collector
Puducherry.
- 3.The Member Secretary
Puducherry Planning Authority
Puducherry.
- 4.The Executive Engineer,
Public Health Division,
Public Works Department
Puducherry.
- 5.The Superintending Engineer – III
Electricity Department,
Puducherry.
- 6.The Station House Officer
Solai Nagar Police Station
Puducherry.

7.G.Rajalakshmi
8.Govindarasu

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 3rd respondent to demolish the unauthorised three floor building situated in Door No.76, Pachaivazhaianman Koil Street, Vaithikuppam, Puducherry in pursuant of demolition notice issued in Letter No.4/PPA/Z[P]/2017/Violation/2058 dated 13.04.2017.

For Petitioner : Mr.P.Gopiraja

For R1 to R6 : Mr.A.Gandhi Raj, Govt.Pleader
[Puducherry]

ORDER

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

By consent, the writ petition is taken up for final disposal at the admission stage itself. Mr.A.Gandhi Raj, learned Government Pleader [Puducherry] accepts notice on behalf of the respondents 1 to 6.

2 The petitioner, in the affidavit, filed in support of this writ petition would aver among other things that the landed property along with the superstructure bearing Door No.76, Pachaivazhaianman

Koil Street, Vaithikuppam, Puducherry, was originally belonged to her father [late] Periyasamy and her mother, [late] Chadrabai and after their demise, the property is in joint possession and enjoyment of the petitioner as well as the other legal heirs. It is further averred by the petitioner that her elder brother, viz., Govindarasu - 8th respondent herein and his wife Tmt.G.Rajalakshmi - 7th respondent herein, started putting up construction in the form of building in the above said property without the consent of the petitioner and other legal heirs and she would further aver that without obtaining any Planning Permission, the said construction is being carried out. The petitioner, in this regard, has submitted representations to the 3rd respondent, who vide Notice dated 13.04.2017, addressed to the 7th respondent to demolish the unauthorised construction and restore the land in its original position within a period of one month from the date of receipt of a copy of the notice, failing which, necessary action will be taken as per the provisions of the Puducherry Town and Country Planning Act, 1969 [hereinafter referred to as "the Act"] and the Puducherry Building Bye-Laws and Zoning Regulations, 2012. The 3rd respondent has also sent a communication dated 13.04.2017 to the respondents 4 and 5, stating among other things that the 7th respondent is willfully continuing with the construction even after the receipt of the Demolition Notice dated

10.04.2017 and therefore, requested them not to extend the water supply service connection and Power supply to the said building.

3 The 3rd respondent also addressed a Letter to the 6th respondent to take necessary and immediate arrangements for stopping the unauthorised construction as provided under section 45[4] of the said Act. The petitioner, in this regard, has also submitted representations to His Excellency the Lieutenant Governor, Puducherry, as well as to the respondents 2, 3 and 6 and in spite of receipt and acknowledgment, the respondents 7 and 8 are continuing with the unauthorised construction and therefore, the petitioner came forward to file the present writ petition.

4 The learned counsel for the petitioner would submit that since the 3rd respondent has taken cognizance with regard to the unauthorised construction being put up by the respondents 7 and 8, the said authority has to follow up and has to immediately steps to stop / halt the unauthorised construction and however, the authority did not take any effective steps and therefore, the petitioner is constrained to approach this Court, by filing the present writ petition.

5 The learned Government Pleader [Puducherry] appearing for the respondents 1 to 6, on instructions, would submit that necessary follow-up action had been taken pursuant to various communications sent by the 3rd respondent to the respondents 4 to 6.

6 This Court has considered the rival submissions and also perused the typed set of documents.

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 in her representation, directs the respondents 3 to 6 to put the respondents 7 and 8 on notice and thereafter, consider and dispose of the petitioner's representation dated 13.04.2017 on merits and in accordance with the Puducherry Town and Country Planning Act, 1969 and the Puducherry Building Bye-Laws and Zoning Regulations, 2012, and pass appropriate orders 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 to the respondents 7 and 8.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

[M.S.N., J.,] [M.S., J]

19.06.2017

Index : No

Internet : Yes

AP

To

- 1.The Child Secretary to Government
Union of India, Puducherry-605001.
- 2.The District Collector
The Office of District Collector
Puducherry.
- 3.The Member Secretary
Puducherry Planning Authority
Puducherry.
- 4.The Executive Engineer,
Public Health Division,
Public Works Department
Puducherry.
- 5.The Superintending Engineer – III
Electricity Department,
Puducherry.
- 6.The Station House Officer
Solai Nagar Police Station
Puducherry.

M.SATHYANARAYANAN, J.,
and
M.SUNDAR, J.,
AP

WP.No.14975/2017

19.06.2017

<http://www.judis.nic.in>