

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25673 of 2017  
and  
W.M.P.No.27087 of 2017

M.Thayar

.. Petitioner

Vs.

1. The District Collector,  
Kancheepuram District,  
Kancheepuram.

2. The Commissioner,  
Maraimalainagar Municipality,  
Kattangkulathur,  
Kancheepuram District.

3. The Inspector,  
Maraimalainagar Municipality,  
Kattangkulathur,  
Kancheepuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to consider the representation of the petitioner dated 06.09.2017, in accordance with law and forbear the respondents from taking any action/closure of the petitioner's Unit situated at Kattangkulathur Village, Maraimalainagar, Kancheepuram District, except by due process of law.

For Petitioner : Mr.Sankar Ramasamy

For Respondents: Mr.S.Diwakar, Spl.G.P. for R1

Mr.O.Selvam, for RR-2 & 3

ORDER

The petitioner has come forward with above writ petition praying to issue a Writ of Mandamus to direct the respondents to consider the representation of the petitioner dated 06.09.2017, in accordance with law and forbear the respondents from taking any action/closure of the petitioner's Unit situated at Kattangkulathur Village, Maraimalainagar, Kancheepuram District, except by due process of law.

2. The petitioner submitted that she is the owner of the property purchased by sale deed, dated 17.05.2012 and that the petitioner has obtained planning permission on 06.12.2012 and has put up a shed and has been paying property tax, electricity consumption charges and other charges to the competent authorities. It is further stated by the petitioner that she had invested nearly Rs.30,00,000/- for bringing the Unit, namely Sri Venkateshwara Automobile Works Tinkering/Painting at Kattankulathur by borrowing bank loan and other private loan(s) and purchased machineries and erected the same with necessary charges, etc. It is the grievance of the petitioner that there is no notice issued to the petitioner and that the respondents are taking steps to close the Unit. Hence, the petitioner has come forward with this Writ Petition for the relief stated supra.

3. Though the respondents have not filed counter affidavit, learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 submitted that the petitioner was sanctioned loan to construct only a house in the site in question as per the planning permit, dated 06.12.2012 on the application made by the petitioner on 18.09.2012 and that the planning permit was granted for a period of three years ending with 05.12.2015 only for the purpose of constructing a house-site. Instead of constructing a house-site, the petitioner has commenced a commercial shop, for which, the permission was not intended. Hence, learned Special Government Pleader appearing for the first respondent and also the learned counsel appearing for the respondents 2 and 3 submitted that action is being initiated against the petitioner for using the site for a different purpose for which the plan was not granted, and hence, the action of the respondents cannot be said to be incorrect and only to protract the proceedings and continue the activities in her shed in the place in question, the petitioner has come forward with this Writ Petition and the premises had been rightly directed to be removed by the respondents.

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

5. A cursory glance on the building permit accorded to the petitioner makes it clear that the petitioner had been permitted only to have the house-site constructed and not any commercial site. The petitioner has also not sought for alternative relief to construct partly-commercial and partly-residential site. It seems that the local residents have also given objections in respect of the activities of the petitioner, on the ground that the smoke is emanating on account of the spray painting of the vehicles and that the paint waste and

other remnants are getting mixed with the lake near-by, thereby causing health hazards to the neighbours and others in the area and that the petitioner's Unit should not be continued to run in the premises in question.

6. Since there had been objections from the neighbours, and since the plan has been sanctioned only for construction of house-site, the petitioner cannot be permitted to continue the commercial/business unit, unless it is meant either for partly-commercial and partly-residential.

7. Hence, I find no merits in the Writ Petition, which is accordingly dismissed. No costs. W.M.P. is closed.

8. At this stage, learned counsel for the petitioner sought four months' time to vacate the premises in question, as the petitioner's belongings have got to be shifted to a new place after identifying a new place. Learned counsel for the petitioner also stated that the petitioner will not seek further time. In view of the above submissions of the learned counsel for the petitioner, and that as the learned Spl.G.P. appearing for the first respondent and the learned counsel for the respondents 2 and 3 have no objection for granting such time sought as for, the petitioner is granted time till 15.02.2018 to vacate the premises in question and handover the possession to the respondents by then. It is made clear that till such time the petitioner shifts her business Unit within the said time and vacates the premises, she shall not carry on any business/commercial activities in the place in question.

Sd/-

Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

cs

To

1. The District Collector,  
Kancheepuram District,  
Kancheepuram.
2. The Commissioner,  
Maraimalainagar Municipality,  
Kattangkulathur,  
Kancheepuram District.

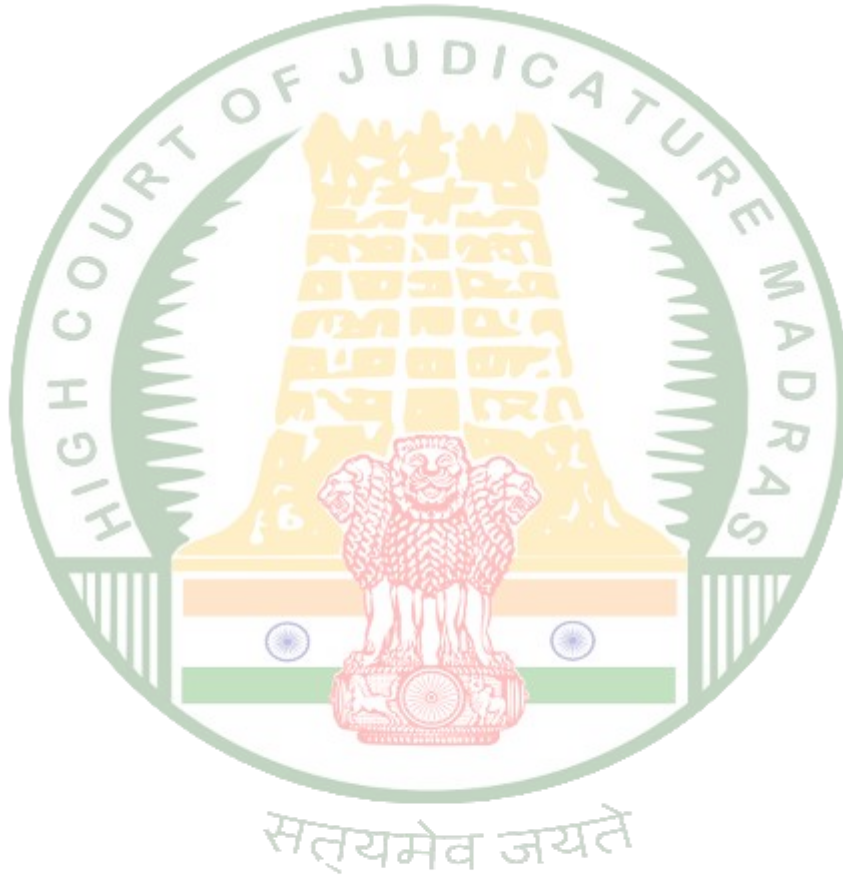
3. The Inspector,  
Maraimalainagar Municipality,  
Kattangkulathur,  
Kancheepuram District.

+ 1 cc to Mr.Sankar Ramasamy Advocate,SR.72895

+ 2 cc to M/s.O.Selvam, Advocate,SR.73263

W.P.No.25673 of 2017

NR 16/11/2017



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