

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.16667/2017 and WMP.No.18038/2017

N.Shanmugam

.. Petitioner

Vs

The Assistant Commissioner,
Division No-3,
Erode Municipal Corporation,
Surampatti, Erode.

..Respondent

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying

[A] for granting an order of Interim Stay, staying all
further proceedings of the impugned order passed by the
respondent in his proceedings Na.Ka.No. E-2/1998/2017, dated
20.06.2017 and

[B] praying for issuing Writ of Certiorari, calling for
the entire records relating to the impugned order passed by
the respondent in his proceedings Na.Ka.No.E-2/1998/2017,
dated 20.06.2017 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.M.Elumalai,
Government Advocate

ORDER

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

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

2 According to the petitioner during the year 1992,
the promoter obtained approval of his layout from the
respondent/Corporation as well as from the Director of Town
and Country Planning in D.T.C.P No.691 of 1992 and as per the
approved layout of the land in question have been divided into
120 plots and three such places have also been identified for
putting up a park or user by public.

3 The grievance expressed by the petitioner is that the respondent / Corporation did not take any steps to develop the plots and as a result, anti social elements are using the lands for anti social activities and causing nuisance to the residents of the locality and in order to avoid the said nuisance, a Hindu Religious Structure has been put up where the Deity of " Lord Vinayaka" has also been constructed without any roof.

4 The learned counsel appearing for the petitioner would submit that since the respondent / Corporation failed to discharge his duty in order to avoid the nuisance, the petitioner and other residents of the locality are left with no option except to put Hindu Religious Structure, which may act as a deterrent and however to shock and surprise, the impugned notice came to be issued calling upon the petitioner to remove the offending structure within seven days from the date of notice and hence, prays for appropriate orders.

5 Per contra, the learned standing counsel for respondent / Corporation would submit that even as per the own admission of the petitioner, the place in question is reserved for public purpose and therefore, the petitioner cannot put up any Hindu Religious Structure without the permission of the Competent Authority and prays for dismissal of the Writ petition.

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

7 It is to be noted at this juncture that even as per the own admission of the petitioner the land / place in question is reserved for public purpose and it has been converted by putting up the Hindu Religious Structure and the same is impermissible under law. However, the petitioner has a right to certain extent on the above land in question as the respondent / Corporation is to develop the said place reserved for public purpose. The petitioner is also at liberty to submit a representation in this regard to the respondent/ Corporation.

8 In the result the writ petition is disposed of and the petitioner is at liberty to submit his representation to the respondent/ Corporation for use of the land in question for public purpose within a period of two weeks from the date of receipt of a copy of this order, by requesting the respondent / Corporation to use the land in question for public purpose and as and when such representation is received, the respondent is directed to consider the same on

merits and pass orders in accordance with law within a further period of four weeks and thereafter, communicate the decision taken, to the petitioner. No costs. Connected Miscellaneous petition is also closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rka/sk

To

The Assistant Commissioner,
Division No-3,
Erode Municipal Corporation,
Surampatti, Erode.

Copy to :

1. The Director,
Municipal Administration and Water Supply Department.
2. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Secretariat, Chennai.

+1cc to Mr.C.Prakasam,Advocate sr.46349

+1cc to Mr.M.Rajamathivanan,Advocate sr.46018

सत्यमेव जयते

WP.No.16667/2017

ss (19/7/2017)

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