

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP No.26968/2017 in WMP.28769 of 2017

C.Kubendran

.. Petitioner

Vs

1. The Commissioner,
St. Thomas Mount Panchayat Union,
Chitalapakkam, Chennai.

2. Ravichandran

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified to call for the records of the respondent from disturbing my peaceful possession and enjoyment of the property in Old No.2/68, New No.2/85, 7th Street, Raghava Nagar, Moovarasanpettai, Chennai - 600 091 pursuant to the impugned notice in Na.Ka.No.21/2017/A4 dated 23.05.2017.

For petitioner : Mr.S.N.Subramani

For R1 : Mrs.M.E.Rani Selvam

Additional Government Pleader

ORDER

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

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

2 The petitioner would state that he has purchased the vacant house site admesuring to an extent of 600 Sq.ft. vide registered document bearing document No.1651 of 2001 dated 04.07.2001 and also put up a superstructure consisting of ground + 1st floor with an open terrace and according to him, the 2nd respondent started putting up construction on the adjacent plot without obtaining any planning permission whatsoever and in that process, attempted to disturb free flow of light and air to the premises of the petitioner and also his privacy. The petitioner in this regard has submitted a representation to the 1st

respondent since it was not given disposal, filed WP No.7176 of 2017 on the file of this Court. The Division Bench of this Court dated 24.03.2017 has finally disposed of the writ petition and granted liberty to the petitioner to approach the Civil Court.

3 The grievance expressed by the petitioner is that despite it is brought to the knowledge of the 2nd respondent about the illegal / unauthorised construction put up by the 2nd respondent, no action whatsoever has been taken against him and the first respondent had issued the impugned notice dated 23.05.2017 calling upon the petitioner to produce the xerox copies of the building planning approval, title deed, approved layout as well as patta.

4 The learned counsel appearing for the petitioner would submit that since the house site on which the petitioner has put up a construction is measuring only about 600 Sq.ft, there is no necessity on the part of the petitioner to obtain the planning permission and seeks the liberty of this Court to respond to the said notice with further direction directing the 1st respondent to consider and dispose of the representation in accordance with law within a stipulated time and till such time, the said official is directed to defer further decisions in terms of the said notice.

5 Per contra, Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the 1st respondent would submit that through the impugned notice, the 1st respondent has merely called upon the petitioner to submit the relevant details and since, it is in the nature of show cause notice, the writ petition is not maintainable and prays for dismissal of this writ petition.

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

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, directs the petitioner to submit his response to the impugned notice dated 23.05.2017 sent by the 1st respondent along with the copy of this order and also enclosing relevant and authenticated documents within a period of four weeks from the date of copy of this order and upon receipt of the same, the 1st respondent is directed to consider the said representation on merits and in accordance with law and pass orders within a period of six weeks thereafter and till the disposal of the representation to be submitted by the petitioner, the 1st respondent shall defer further decisions in terms of the impugned notice dated 23.05.2017. It is made clear

that the petitioner, till the disposal of the representation by the 1st respondent, shall not create any third party rights in respect of the land/superstructure in question and shall not alter the physical features also.

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

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

rka

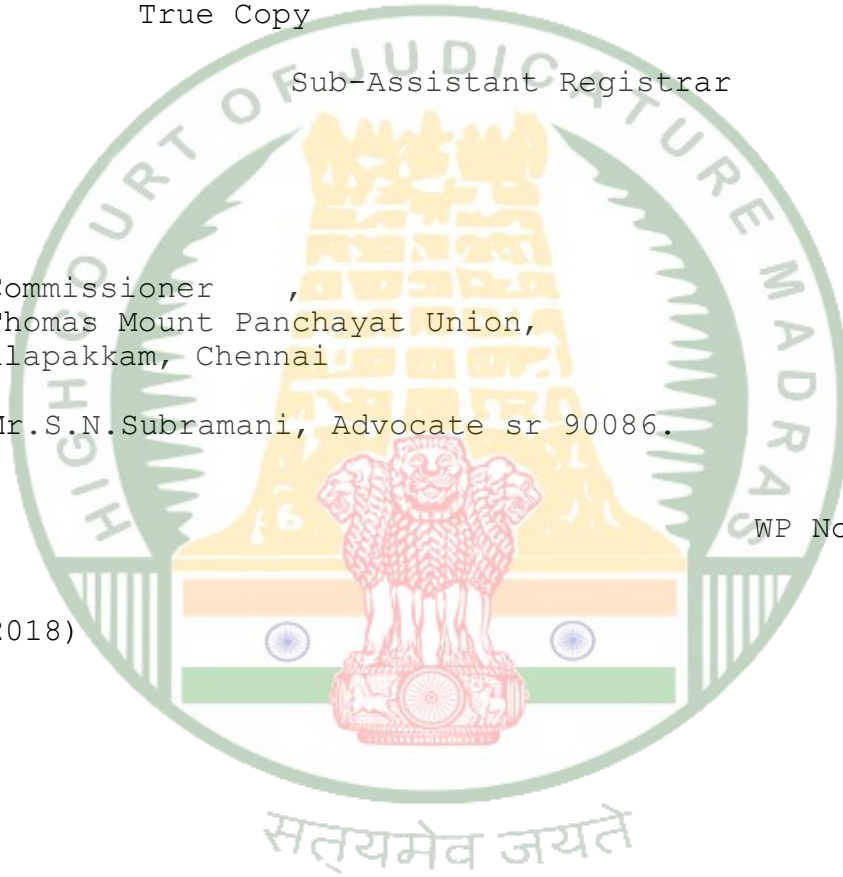
To

The Commissioner ,
St. Thomas Mount Panchayat Union,
Chitalapakkam, Chennai

+1 CC to Mr.S.N.Subramani, Advocate sr 90086.

WP No.26968/2017

SP(22/01/2018)



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