

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.33923 of 2015
and
M.P.No.2 of 2015

1.D.Gokilam
2.D.Prabhu

... Petitioners

-Vs-

1. The Commissioner,
Tiruppur Muncipal Corporation,
Tiruppur.
2. The Assistant Executive Engineer-cum
Assistant Commissioner (Public),
Nallur Zone No.3,
Tiruppur Municipal Corporation,
Tiruppur.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of order dated 23.9.2015 in Proceedings No.Na.Ka.E1/Ka.V.125/2015/M-3 on the file of the second respondent and quash the same.

For Petitioner : Mr.K.Myilsamy

For Respondents : No Appearance

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioners have assailed the impugned order dated 23.9.2015 of the second respondent/Assistant Executive Engineer-cum-Assistant Commissioner(Public) of Tiruppur Municipal Corporation cancelling the planning permission granted earlier to the petitioner vide proceedings dated 06.4.2015.

2. As per the stand taken in the counter-affidavit, the building license previously granted was erroneous since the land is stated to be belonging to the Tiruppur Municipal Corporation and that resulted in the impugned order dated 23.9.2015. It is also alleged that the building was not being constructed as per the plan. We may however add that the last aspect is not something which forms part of any notice.

3. On hearing the learned counsel for the petitioners, we are of the view that once the license had been granted, the petitioners should atleast have been afforded an opportunity before cancellation of the license and that too on the ground that the petitioners were not the owners, but the Municipal Corporation.

4. We are, thus, of the view that the impugned communication to the extent seeking to cancel the previous planning permission, be set aside and the impugned order treated as notice to show cause, which would enable the petitioners to file a reply with documents to substantiate their plea of having ownership of the land. The reply be filed within a period of one month from today and necessary orders would be passed thereafter on consideration of the reply filed by the petitioners within a period of two months thereafter.

5. The writ petitions, accordingly, stand disposed of. No costs. Consequently, M.P.No.2 of 2015 is closed.

6. The interim order made on 20.10.2015 shall continue to enure to the benefit of the petitioners during the aforesaid proceedings and in case of any adverse order being passed, for a period of fifteen days after service of that order, to enable them to exhaust their further legal remedies.

Sd/-

सत्यमेव जयते
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

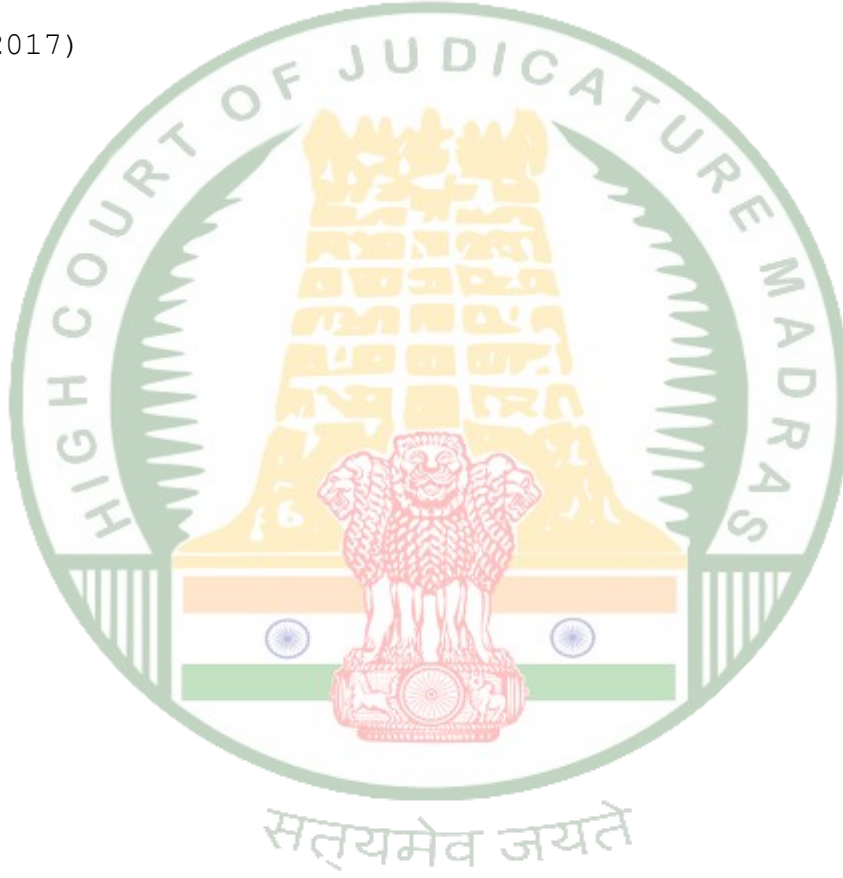
1. The Commissioner,
Tiruppur Muncipal Corporation,
Tiruppur.

2. The Assistant Executive Engineer-cum
Assistant Commissioner (Public),
Nallur Zone No.3,
Tiruppur Municipal Corporation,
Tiruppur.

+1cc to M/s.K.Myilsamy, Advocate, S.R.No.3612

W.P.No.33923 of 2015

RSK(CO)
CA(27/01/2017)



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