

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.35708 of 2003

and

W.P.M.P.No.43399 of 2003

The District Congress Committee,
Rep. By its Vice President
A. Karuthovian
Son of Ayyavu Gounder,
Trust Office at
28, Vijayarangam Nilayam,
Officer line, Vellore-1.

... Petitioner

Vs.

1.The Commissioner,
Vellore Municipality,
Vellore.

2. Jaya Mohan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to demolish the building illegally constructed by the second respondent in the petitioner's Trust property in T.S.No.587/11, No.28, Vijayarangam Nilayam, Officer line, Vellore District and further directing to hand over the same to the petitioner's trust.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.A.Zakkir Hussain
Government Advocate for R1
Mr.G.Vinodh Kumar for R2

O R D E R

The Vice President/petitioner committee filed the writ petition directing the first respondent to demolish the building illegally constructed in the petitioner's Trust property in T.S.No.587/11, No.28,Vijayarangam Nilayam, Officer Line, Vellore District and also to direct to handover the same to the petitioner's Trust.

2. Admittedly, the petitioner trust property in T.S.No.587/11 Maiden Poromboke is assigned to the District Congress Committee by the Board of the Revenue vide G.O.M.S.No.3911 dated 15.10.1958. In that order, it is specifically stated that the property was assigned only by the District Congress Committee and in that property 12 shops were constructed for the purpose of welfare of the petitioner Committee.

3. Thereafter, the petitioner/District Congress Committee have formed a Trust in the year 1972 and nominated seven trustees. In the year 1981, one B.Samandha Mudaliar, one of the trustees evicted the proceeding and he instituted a suit in O.S.No.1907 of 1981, before the District Munsif Court, Vellore in O.S.No 1907 of 1981.

4. While so, the petitioner alleged that the second respondent with rowdy elements take over the property and put up construction with the help of rowdy elements. Against the said illegal action, a complaint was lodged before the local police station to that effect. Till filing the writ petition, the police did not take any action against the second respondent's illegal construction. Therefore, the petitioner filed the present writ petition.

5. On perusal of the complaint dated 22.04.2002, it is manifested that the second respondent belongs to the Indian National Congress. In the year 1972, there was a Division in the Congress Political Party and it has been divided as Congress 'O' and Congress 'R'. Out of the said dispute, one group lodged the said complaint.

6. On perusal of the complainant, it is seen that there is a disputed question of facts involved in the case and when the dispute falls under Article 226 of the Constitution of India, it is not sustainable. सत्यमेव जयते

Accordingly, the writ petition is dismissed. However, it is open to the parties to workout their remedy before the appropriate forum. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gv/gmd

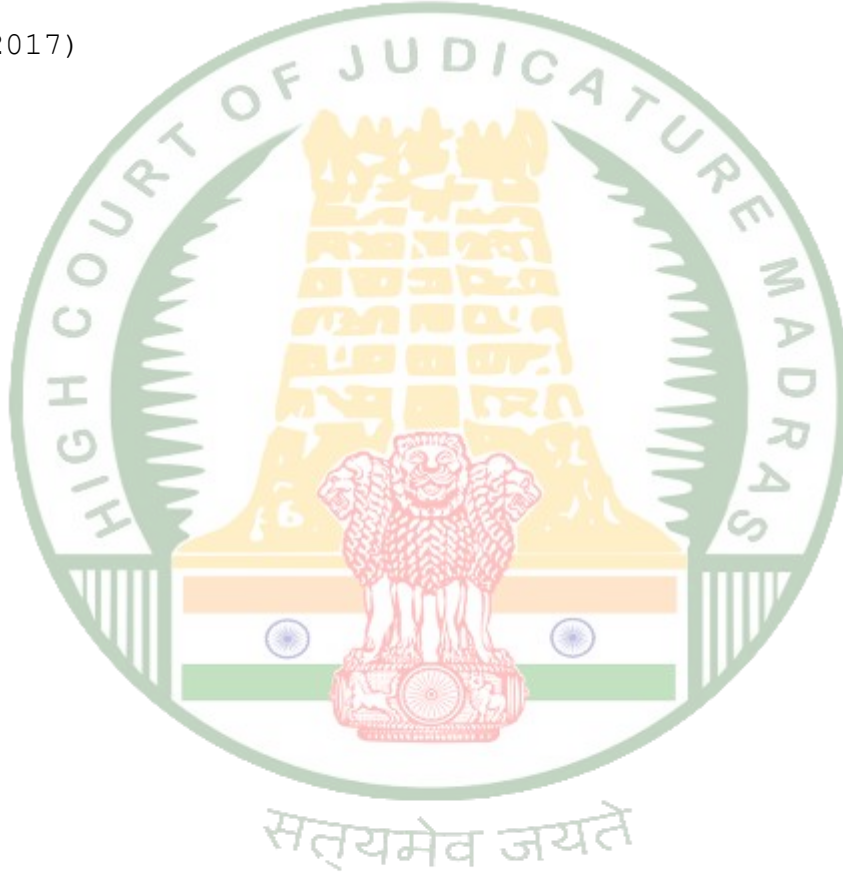
To

The Commissioner,
Vellore Municipality,
Vellore.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.62029

W.P.No.35708 of 2003
and
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GR(CO)
GN(10/10/2017)



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