



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16248 of 2015

and

W.M.P. (MD) Nos.1 and 2 of 2015

and

W.P. (MD) Nos.23519 and 24906 of 2016

W.P(MD)No.16248 of 2015

N.Sankaralingam

.. Petitioner in W.P(MD)No.16248 of 2015

Vs.

1.The Deputy Director(Incharge),
Town and Country Planning Authority,
Tirunelveli Region,
108, Tiruvananthapuram Road,
Tirunelveli- 2.

2.The Commissioner,
Tenkasi Municipality,
Tenkasi Town,
Tirunelveli District. .. Respondents in W.P(MD)No.16248 of 2015

W.P(MD)No.23519/2016

S.Shanmugavel

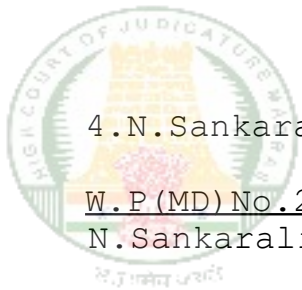
.. Petitioner in W.P(MD)No.23519 of 2016

Vs.

1.The Director of Municipal Administration,
Office of the Director of Municipal Administration,
Chepauk,
Chennai -600 005.

2.The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

3.The Inspector,
(Town and Country Planning)
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.



4.N.Sankaralingam

..Respondents in W.P(MD)No.23519 of 2016

W.P(MD)No.24906/2016

N.Sankaralingam

.. Petitioner in W.P(MD)No.24906 of 2016

Vs.

1.The Director of Municipal Administration,
Office of the Director of Municipal Administration,
Chepauk,
Chennai -600 005.

2.The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

3.The Inspector,
(Town and Country Planning)
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

4.P.Subbiah .. Respondents in W.P(MD)No.24906 of 2016

PRAYER in W.P(MD)No.16248 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No.759 of 2015 Thi.Li.Ma3, dated 22.04.2015 on the file of the 1st respondent herein and to quash the same as illegal and consequently direct the respondents herein to approve the ratification of plan submitted by the petitioner herein within a stipulated period.

PRAYER in W.P(MD)No.23519 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent herein to remove the unauthorized / deviated structure constructed in Door No.27/58, Arasoor Nangaianman Kovil Street, Tenkasi by the 4th respondent in terms of the order of the 2nd Respondent in Ka.Vi.No.172 of 2010 dated 06.02.2015.

PRAYER in W.P(MD)No.24906 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent herein to remove the unauthorized / deviated constructions constructed in D.No.59, Arasoor Nangaianman Kovil Street, Tenkasi by the 4th respondent herein as per the order of the 2nd respondent in Na.Ka.No.2672 of 2014 F1 dated 06.08.2015.

in W.P(MD)No.16248 of 2015



For R1

: Mr.M.Govindan
Special Government Pleader.

For R2

: Mr.P.Athimoolapandian

in W.P(MD)No.23519 of 2016

For petitioner

: Mr.M.Saravanakumar
For Mr.H.Thayumanasamy

For R1 & R3

: Mr.M.Govindan
Special Government Pleader.

For R2

: Mr.P.Athimoolapandian

For R4

: Mr.H.Arumugam

in W.P(MD)No.24906 of 2016

For petitioner

: Mr.H.Arumugam

For R1

: Mr.M.Govindan
Special Government Pleader.

For R2 & R3

: Mr.P.Athimoolapandian

For R4

: No appearance

C O M M O N O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

All the three writ petitions are taken up together for final disposal with the consent of the parties.

2.W.P(MD)No.16248 of 2015 and W.P(MD)No.24906 of 2016 were filed by one N.Sankaralingam, while W.P(MD)No.23519 of 2016 was filed by one S.Shanmugavel. In W.P(MD)No.16248 of 2015, the writ petitioner challenges the communication dated 22.04.2015 issued by the Deputy Director, Town and Country Planning Authority, Tirunelveli Region, returning the application submitted by the writ petitioner seeking regularisation of the deviation committed by him while constructing his dwelling house. The writ petitioner originally obtained approval for putting up his dwelling house. In view of the deviations committed by him, he submitted an application to the Commissioner, Tenkasi Municipality for ratification. The Commissioner, Tenkasi Municipality instead of deciding the issue



himself, chose to forward the same to the Deputy Director, Town and Country Planning Authority, Tirunelveli Region. The said authority returned the application to the Commissioner, Tenkasi Municipality with a direction to take action against the writ petitioner. Aggrieved by the communication dated 22.04.2015, W.P.(MD) No.16248 of 2015 has come to be filed.

3.The short point taken by the learned counsel for the writ petitioner is that this is an issue that falls within the exclusive domain of the Commissioner, Tenkasi Municipality. Therefore, there was absolutely no necessity to refer the same to the first respondent. Only if the construction is beyond a certain limit, the first respondent will have to look into the matter. But, admittedly, in view of the nature and extent of the construction put up by the writ petitioner, the issue has to be decided only by the Commissioner, Tenkasi Municipality. On this ground this Court quashes the communication dated 22.04.2015 impugned in W.P.(MD) No.16248 of 2015.

4.Coming to W.P.(MD) No.23519 and 24906 of 2016, it can be seen that both the writ petitions are direct outcome of the civil dispute between N.Sangakaralingam and P.Subbiah who are neighbours. With regard to the nature of the vacant site in between the two houses, there arose a civil dispute between them leading to institution of O.S.No.468 of 2010 on the file of Principal District Munsif Court, Tenkasi. Since both the neighbours have not constructed their respective houses as per approval, both are vulnerable. N.Sangakaralingam seeks demolition of P.Subbiah's house since it is without planning approval. Similarly P.Subbiah wants to demolish N.Sangakaralingam's house, since there are deviations. Therefore, P.Subbiah has filed W.P.(MD) No.23519 of 2016.

5.This Court expressed its displeasure over the conduct of both the parties. Therefore, this Court dismisses both the writ petitions. It is for the concerned authorities to act in the matter.

6.Accordingly, W.P.(MD) No.16248 of 2015 is allowed, W.P.(MD) No.23519 of 2016 and W.P.(MD) No.24906 of 2016 stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

1.The Deputy Director(Incharge),
Town and Country Planning Authority,
Tirunelveli Region,
108, Tiruvananthapuram Road, Tirunelveli- 2.



2.The Commissioner,
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Tenkasi Town,
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3.The Director of Municipal Administration,
Office of the Director of Municipal Administration,
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Chennai -600 005.

4.The Inspector,
(Town and Country Planning)
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

+1cc to Mr.M.THIRUNAVUKKARASU Advocate in SR. No. 70339
+1cc to Mr.H.ARUMUGAM Advocate in SR. No.70338
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 70632,70635

MM/SS
JS/SKN.RSK/SAR.3/18.09.2017/5P-8C

ORDER MADE IN
W.P (MD) No.16248 of 2015
and
W.M.P. (MD) Nos.1 and 2 of 2015
and
W.P. (MD) Nos.23519 and 24906 of 2016
03.08.2017