



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.16659 of 2015

Rajalakshmi ... Petitioner

Vs.

1. The District Collector,
Madurai District, Madurai.
2. The Commissioner,
Madurai Corporation, Madurai.
3. The Town Planning Officer,
Madurai Corporation, Madurai.
4. M.P.K.P.Rengasamy

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to take all effective steps by issuing notice under 296(3) of the Madurai City Municipal Corporation Act 1971 against the 4th respondent in pursuance of the notice dated 30.10.2013 issued under section 296(1) and (2) of the Madurai City Municipal Corporation Act 1971 by the 2nd respondent.

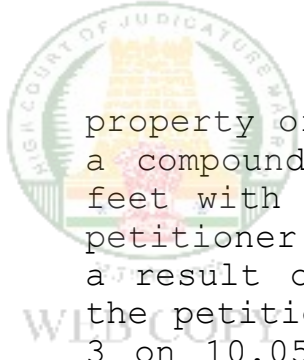
For Petitioner : Mr.D. Sadiq Raja
For Respondents 1 & 3 : Mr.N.S. Karthikeyan
For Respondent No.2 : Mr. R. Prabhu Ramachandran
For Respondent No.4 : Mr. J. Barathan

O R D E R

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

The prayer in the writ petition is for a writ of Mandamus, directing the 2nd and 3rd respondents to take all effective steps by issuing notice under 296(3) of the Madurai City Municipal Corporation Act 1971 against the 4th respondent in pursuance of the notice dated 30.10.2013 issued under section 296(1) and (2) of the Madurai City Municipal Corporation Act 1971 by the 2nd respondent.

2. The case of the petitioner is that she is the owner of the land comprised in S.Nos.264/4 and 256/9 at Thirupparankundram, Madurai District. On the southern side of the property, the



property of the 4th respondent is situated, in which, he had put up a compound wall on the east west direction to an extent of 231 feet with 20 feet height, which is without the permission of the petitioner. However, there is no support to the said wall and as a result of which, the wall would fall at any time. Therefore, the petitioner has given a representation to the respondents 1 to 3 on 10.05.2013 to take action on the same. Pursuant to which, the 2nd respondent has issued notice to the 4th respondent calling upon him to demolish the said building within a period of 7 days from the date of receipt of the notice by invoking Sections 296 (1) and (2) of the Madurai City Municipal Corporation Act, 1971 (hereinafter referred to as 'the Act'). However, since no action has been taken by the 4th respondent, pursuant to the said notice, the petitioner has come up with the present writ petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

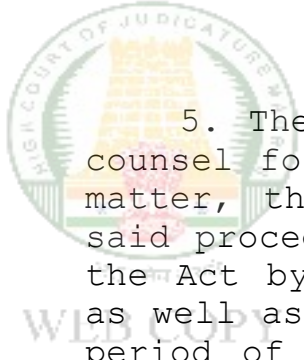
4. When the matter was taken up, the third respondent has filed a counter, in which, he had stated as follows:

"4.I humbly submit that the property in Survey No.264/4 & 256/9 at Thiruparankundram, Madurai belongs to the petitioner and the property in Survey No.263/2 belongs to the 4th respondent. The 4th respondent has put up a compound wall on East - West direction in his property without getting any prior permission from the Madurai Corporation mandated under the Madurai City Municipal Corporation Act, 1971.

5.I respectfully submit that as per Section 296(1) & 296(2) of the Act, the 4th respondent was served with a notice on 05.02.2013 regarding the unauthorised construction of the building wall. Accordingly, as per the above notice dated 05.02.2013, the 4th respondent was show caused why the order to demolish the unauthorised building should not be confirmed and directed him to give him the reply within the reasonable time limit.

6.I respectfully submit that in the meantime, the petitioner's husband namely one Manivannan had filed the Writ Petition in W.P.(MD) No.6301 of 2014 before this Hon'ble Court with the same prayer of the present writ petition and it was dismissed as withdrawn on 23.06.2015. As far as this respondent is concerned, I would take necessary action without any bias by following the provisions of the Madurai City Municipal Corporation Act, 1971."

From the counter affidavit, it could be seen that now a proceeding is pending before the 2nd respondent pursuant to the notice dated



5. Therefore, in view of the submissions made by the learned counsel for the respondents, without going into the merits of the matter, the 2nd respondent is directed to conduct enquiry on the said proceeding instituted by him under Section 296(1) and (2) of the Act by affording an opportunity of hearing to the petitioner as well as the 4th respondent and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, the writ petition is disposed of. No costs. No costs.

Sd/-

Assistant Registrar(AO-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector,
Madurai District,
Madurai.
2. The Commissioner,
Madurai Corporation,
Madurai.
3. The Town Planning Officer,
Madurai Corporation,
Madurai.

+1 cc to MR.T.R.Jeyapalan, ADVOCATE, SR NO:4939
+1 cc to MR.R.Prabu Ramachandran, ADVOCATE, SR NO:4957
+1 CC to M/S.SPL.GOV.T.PLEADER, SR NO:5024
+1 cc to MR.D.Sadiq Raja, ADVOCATE, SR NO:5352

**Order made in
W.P. [MD] .No.16659 of 2015
30.01.2017**

RR

MKV-SV-MMS-SAR 3/14.3.2017/3P-8C