



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.6789 of 2014
and
M.P. (MD) .No.1 of 2014

R.K.Mony

: Petitioner

Vs.

1. The Municipal Commissioner,
Nagercoil Municipality,
Balamore Road,
Nagercoil-629 001,
Kanyakumari District.

2. Mr.S.Rajamony

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to take steps for demolishing/removal of unauthorized and illegal construction put up by the second respondent in Door No.2, South Car Street in S.N.D5/75, Nagercoil Municipality.

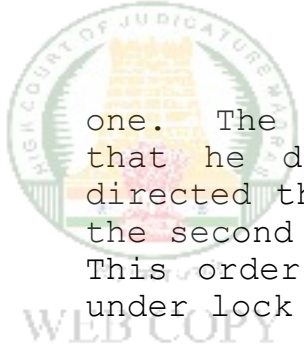
For Petitioner : Mr.S.Natarajan
For Respondent No.1 : Mr.P.Athimoolapandian
For Respondent No.2 : Mr.V.Meeeenakshi Sundaram
For Mr.D.Nallathambi

O R D E R

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

This writ petition has been filed for directing the Municipal Commissioner, Nagercoil Municipality, to take steps for demolishing / removal of unauthorized and illegal construction put up by the second respondent in Door No.2, South Car Street in S.N.D5/75, Nagercoil Municipality.

2. When the writ petition came up on an earlier occasion, we posed a specific question to the learned counsel for the second respondent as to whether the building put up by him is an approved



one. The learned counsel for the second respondent fairly admitted that he did not have proper building approval. Thereupon, we directed the first respondent to seal the premises after permitting the second respondent to remove the articles stored in the building. This order was complied with and as-on-date, the building remains under lock and seal.

3. When the writ petition came up today, the learned counsel for the second respondent submitted that the second respondent had already moved the concerned authority for regularising the construction put up by him. The concerned authority is yet to take a decision in the matter.

4. The learned counsel for the writ petitioner would strongly urge that the first respondent should be directed to demolish the construction.

5. We are not inclined to straightaway issue such a direction. It is stated that the second respondent had submitted a plan for regularising the construction put up by him. Unless the said application submitted by the second respondent is negatived, the first respondent may not be justified in proceeding to demolish the construction at this stage. If the first respondent demolishes the construction, immediately the application submitted by the second respondent would become infructuous. But, at the same time, the second respondent cannot indefinitely prolong the issue as he has been all along. The first respondent can wait for a reasonable period so as to enable the second respondent to get an interim relief or a final order of approval from the Appellate Authority / Competent Authority. If the second respondent is unable to obtain final order of regularisation or interim relief from the appropriate authority within six months from the date of receipt of this order, it is open to the first respondent to proceed further in the manner known to law. At present, the building remains under lock and seal.

6. We are therefore of the view that no further orders are required at present. This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar



To:

The Municipal Commissioner,
Nagercoil Municipality,
Balamore Road,
Nagercoil-629 001,
Kanyakumari District.

+ 1 CC TO Mr.S.NATARAJAN, ADVOCATE IN SR No. 68790
+ 1 CC TO Mr.D.NALLATHAMBI, ADVOCATE IN SR No. 68487

TSG/SKM

TE/GT/SAR-II : 09/08/2017 : 3P/4C

Order made in
W.P.(MD)No.6789 of 2014 and
M.P.(MD).No.1 of 2014
dated: 27.07.2017