



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.06.2017
CORAM:

THE HONOURABLE MR.JUSTICE **A.SELVAM**
and
THE HONOURABLE MR.JUSTICE **N.AUTHINATHAN**

W.P (MD) No.10846 of 2017

L.G.Sarath Inigo

.. Petitioner

Vs.

1. The District Collector,
Collectorate Campus,
Kokirakullam, Tirunelveli - 627 009.
2. The Member Secretary,
Local Planning Authority,
South Bypass Road,
Tirunelveli - 627 005.
3. The Commissioner,
Tirunelveli City Municipal Corporation,
S.N.High Road, Tirunelveli - 627 001.
4. Mr.Jeyakumar Christudoss

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent Nos.1 to 3 to implement the notices issued by the respondent No.2 viz., stop work notice Na.Ka.No.1190/2015, dated 29.09.2015 followed by a sealing cum demolishing notice viz., notice Na.Ka.No.1190/2015, dated 24.02.2017 by sealing and demolishing the unlawful construction put up by the respondent No.4 herein Plot No.21, Door No.41A/1, Jebanagar, Melapalayam Post, Tirunelveli - 627 005 and to recover the expenses for demolition from the respondent No.4 in accordance with Sections 272, 274, 284, 296 and 297 of the Tirunelveli City Municipal Corporation Act, 1994 and as per the Sections 56 and 57 r/w sections 83, 84, 85 and 86 of the Town and Country Planning Act, 1970.

For Petitioner

: Mr.J.Ashok
for Jeyapaul Associates
: Mr.M.Govindan,
Special Government Pleader.
: Mr.Aayiram K.Selvakumar

For RR 1 & 2

**ORDER**

[Order of the Court was made by **A.SELVAM, J.**]

This writ petition has been filed under Article 226 of the Constitution of India praying to direct the respondent No.2 to stop work notice passed in Na.Ka.No.1190/2015, dated 29.09.2015 followed by a sealing cum demolishing notice passed in Na.Ka.No.1190/2015, dated 24.02.2017, by sealing and demolishing the unlawful construction put up by the respondent No.4 in Plot No.21, Door No.41A/1, Jebanagar, Melapalayam Post, Tirunelveli and to recover the expenses for demolition from the respondent No.4 in accordance with Sections 272, 274, 284, 296 and 297 of the Tirunelveli City Municipal Corporation Act, 1994 and as per the Sections 56 and 57 r/w sections 83, 84, 85 and 86 of the Town and Country Planning Act, 1970, by way of issuing a writ of mandamus.

2.Mr.M.Govindan, learned Special Government Pleader, has taken notice for the respondents 1 & 2. Mr.Aayiram K.Selvakumar, learned counsel has taken notice for the third respondent. Considering the nature of the relief sought in the writ petition, notice need not be sent to the fourth respondent.

3.The learned Special Government Pleader appearing for the respondents 1 and 2 has contended to the effect that for identical relief, the petitioner has already filed Writ Petition(MD)No.5824 of 2015 on the file of this Court wherein a specific direction has been given and subsequently, the petitioner has filed Contempt Petition(MD)No.662 of 2016. under the said circumstances, the petitioner has filed the present petition.

4.In fact this Court has perused the relief sought in the writ petition and the same is identical with the relief sought in Writ Petition(MD)No.5824 of 2015. Further, it is seen from the records that on the basis of the order passed in Writ Petition(MD) No.5824 of 2015, Contempt Petition(MD)No.662 of 2016 has also been filed. Since for identical relief the petitioner has already filed a Writ Petition wherein a specific direction has been given and in pursuance of the same contempt petition has also been filed and the same is pending, this Writ Petition is not factually and legally maintainable and therefore the same deserves to be dismissed.

5.In fine, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1. The District Collector,
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2. The Member Secretary,
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3. The Commissioner,
Tirunelveli City Municipal Corporation,
S.N.High Road,
Tirunelveli - 627 001.

ORDER MADE IN
W.P (MD) No.10846 of 2017
12.06.2017

PS/CP
JM/GT/SAR 1/20.06.2017/3P/4C