



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.14597 of 2017

and

W.M.P (MD) No.11446 of 2017

Simon Selvan
Son of Irudhayaraj,
Parish Priest,
Sacred Heart Church,
Irudayakulam,
Vikramasingapuram - 627425,
Ambasamuthram Taluk,
Thirunelveli District.

... Petitioner

Vs.

- 1.The commissioner
Vikramasingapuram Municipality,
Vikramasingapuram,
Ambasamuthram Taluk,
Thirunelveli District.
- 2.The District Collector,
Thirunelveli District,
Thirunelveli.
- 3.The Tahsildar
Ambasamuthram Taluk,
Thirunelveli District.
- 4.The Thiruvaduthurai Aadhinam
Represented by its Aadhinakarathar,
East Car Street, Vikramasingapuram,
Ambasamuthram Taluk,
Thirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records relating to the impugned notice dated 12.08.2016 in Na.Ka.No.8178/2014/F1 and the impugned notice dated 31.01.2017 in Na.Ka.No.8178/2014/F1 passed by the first respondent and quash the same and consequentially, forbearing the respondents from interfering with the construction of building in Old Survey No.385/2, New Survey No.1370, Vikramasingapuram, Ambasamuthram Taluk, Thirunelveli District.



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For Petitioner : Mr.T.R.Jeyapalam
For R1 : Mr.H.Arumugam
Standing Counsel
For R2 & R3 : Mr.J.Gunaseelan Muthiah,
Government Advocate
For R4 : Mr.S.Ramu

ORDER

This writ petition has been filed, seeking to quash the impugned notice dated 12.08.2016 and 31.01.2017, issued by the first respondent. The petitioner also sought for a direction to forbear the respondents from interfering with the construction of building in Old Survey No.385/2, New Survey No.1370, Vikramasingapuram, Ambasamuthram Taluk, Thirunelveli District.

2. Heard the learned counsel appearing on either side.

3. It is the case of the petitioner that the property in question originally belonged to the fourth respondent and a portion of the same was sold to one Mariyal through sale deed dated 14.06.1940, after obtaining permission from the authorities. The said property was sold to one Savarimuthu Pillai through sale deed dated 29.09.1954 and the said Savarimuthu Pillai sold the same to the Roman Catholic Mission through sale deed dated 28.03.1961. The petitioner, who is the Parish Priest of the said Mission, proposed to construct a building measuring 190 sq. ft. and also obtained necessary building plan approval on 26.02.2015 from the 1st respondent. When the construction work was going on, the fourth respondent has raised objection to the first respondent claiming right over the said property. Hence, the first respondent issued the impugned notice dated 12.08.2016, to produce the documents and the petitioner submitted the copies of sale deed and parent documents before the first respondent on 22.08.2016. Thereafter, the first respondent again sent another impugned notice dated 31.01.2017, by which, the first respondent had alleged that the petitioner had not produced the relevant documents for the earlier notice dated 12.08.2016. In this regard, the petitioner sent a detailed reply on 01.03.2017 to the respondents 1 to 3. But, the first respondent has not passed any order thereafter. Hence, the petitioner has come before this Court with the above said prayer.

4. At this juncture, learned counsel appearing for the fourth respondent has fairly submitted that without considering the documents filed, the impugned notice dated 31.01.2017 came to be issued, which admittedly cannot stand in the eye of law.

<https://hcservices.ecourts.gov.in/hcservices/view> of the fair submission made by the learned counsel for the 4th respondent, this petition is allowed. The impugned notice dated 31.01.2017 is set aside and the matter is



remitted back to the first respondent, who in turn is directed to consider all the required documents, now produced by the respective parties, conduct necessary enquiry and pass appropriate orders on its own merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording due opportunity of hearing to the petitioner, the fourth respondent and other interested parties, if any. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL. SIDE)

/True Copy/

Sub Assistant Registrar

To:

1. The commissioner
Vikramasingapuram Municipality,
Vikramasingapuram,
Ambasamuthram Taluk,
Thirunelveli District.

2. The District Collector,
Thirunelveli District,
Thirunelveli.

3. The Tahsildar
Ambasamuthram Taluk,
Thirunelveli District.

+1cc to Mr.M.RAMU Advocate in SR. No. 79318

+1cc to Mr.H.ARUMUGAM Advocate in SR. No. 79833

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 79603

RM

JS/MR.KKR/SAR.1/27.09.2017/3P-7C

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