

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.No.7401 of 2018 and WMP.No.9191 of 2018

B.Ramesh

.. Petitioner

Versus

1.The Commissiner,
Directorate of Town and Country Planning,
Chengalvarayan Building,
4th and 5th Floor, 807 Anna Salai,
Chennai-600 002.

2.The Zonal Director,
Directorate of Town and Country Planning,
Salem Region,
6, Sannathi Street, Subramaniaya Nagar,
Suramangalam, Salem-636 005.

3.The Executive Officer,
Valapaddi Town Panchayat,
Valapaddi Town Panchayat Office,
Valapaddi Taluk and Post.
Salem District.

4.A.Murugan

5.The Executive Engineer,
TANGEDCO (TNEB)
Valapaddi Town Panchayat,
Salem District.

.. Respondents

(R5-Suo Motu impleaded
as per order dt.28.03.2018)

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PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 2 and 3 herein to take appropriate action for demolition of the unauthorised construction of the 4th respondent premises which is situated in S.No.179/9A, 179/9C and 179/10 which is situated in Valapaddi Municipality and Town, Salem District based on the petitioner representation dated 12.02.2018 and reminder representation 14.03.2018.

For Petitioner :Mr.A.Rajakumar

For Respondents :Mr.R.Udhayakumar, AGP for R1 to R3

Mr.Anand Venkatesh for
Mr.A.E.Ravichadran for R4
Mr.S.K.Raameshwar for R5

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of respondents 1 to 3, Mr.Anand Venkatesh, learned counsel accepts notice on behalf of 4th respondent and Mr.S.K.Raameshwar, learned counsel accepts notice on behalf of 5th respondent.

2. The petitioner claims to be a resident of Chinna Konar Street, Valapaddi Taluk, Salem District and according to him, the 4th respondent has put up a commercial building in Survey.Nos.179/9A, 179/9C and 179/10, without obtaining any planning permission / approval from the respondents 2 and 3. The petitioner in this regard has also invoked the provisions of the Right to Information Act, 2005, and obtained an information dated 19.01.2018 in Na.Ka.No.7/2018/A2 furnished by the 3rd respondent which would disclose about the pendency of the suit in O.S.No.705 of 2015, on the file of the Court of I Additional District Judge, Salem and as a consequence, no door number has been assigned.

3. The learned counsel appearing for the petitioner would submit that without obtaining planning permission or approval, the 4th respondent has put up an unauthorised construction and to take appropriate action, the petitioner has filed WMP.No.9191 of 2018, wherein this Court has passed an interim direction dated 28.03.2018, directing the 5th respondent to disconnect the

electricity supply to the supermarket of the 4th respondent and that apart, appropriate action be taken to demolish the superstructure also.

4. Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that since the 4th respondent has put up unauthorised construction and was running a supermarket, Lock and Seal Notice dated 16.04.2018 has also been issued to the 4th respondent and as on date, electricity supply has been disconnected.

5. Mr. Anand Venkatesh, learned counsel appearing for the 4th respondent has invited the attention of this Court to the counter affidavit filed in support of this writ petition and would submit that the petitioner along with four others had filed a suit in O.S.No.208 of 2015 against 81 defendants, wherein the 4th respondent was arrayed as 12th defendant and it was filed for partition and separate possession and that apart the 4th respondent along with one Sridhar had also filed O.S.No.407 of 2017 against the petitioner and six others for permanent injunction and also obtained interim orders dated 05.10.2017 in I.A.No.337 of 2017 under the said suit and the pendency of both the suits is totally suppressed by the petitioner and would further aver that for regularisation of the construction put on by the 4th respondent, wherein he is running supermarket, necessary application has also been submitted to the concerned authority and further aver that the 4th respondent itself is guilty of putting up unauthorised construction and prays for appropriate orders.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. A perusal of the typed set of documents filed by the 4th respondent would disclose that the petitioner along with four others has filed a comprehensive suit for partition and other consequential reliefs including to set aside the Sale Deed in favour of the 4th respondent and the said suit is pending without any interim order. The 4th respondent along with one Sridhar has also filed suit O.S.No.407 of 2017 for permanent injunction and on pendency of the same, filed I.A.No.337 of 2017, after contesting, an order of ad-interim injunction was granted and the petitioner has totally suppressed the said litigations. In the considered opinion of this Court, the petitioner has failed to approach this Court with clean hands and he is not entitled to get any indulgence from this Court.

8. It is also brought to the knowledge of this Court that with regard to the unauthorised construction put up by the 4th respondent and also running of the supermarket, the 3rd respondent has issued lock and seal notice dated 16.04.2018.

9. In the light of the above facts and circumstances, it is open to the 4th respondent, if he is so advised, to avail the remedy to make a challenge to the lock and seal notice dated 16.04.2018, which was served upon him. The 3rd respondent shall also cause inspection of the superstructure of the petitioner situated in Chinna Konar Street, Valapaddi Taluk, Salem District after putting the petitioner and other occupants on notice and it is open to them to take appropriate action in accordance with law.

10. The writ petition stands dismissed with the above observation. In the light of the fact that the petitioner has deliberately suppressed the material fact about pending Civil litigations, a cost of Rs.10,000/- (Rupees Ten Thousand only) is imposed on the petitioner and it is payable to the Government Girls Higher Secondary School in Valapaddi Taluk, Salem District in the form of Demand Draft and it shall be utilized for provision of basic amenities to the said school. The cost imposed above shall be paid within a period of two weeks from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissiner,
Directorate of Town and Country Planning,
Chengalvarayan Building,
4th and 5th Floor, 807 Anna Salai,
Chennai-600 002.

2.The Zonal Director,
Directorate of Town and Country Planning,
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6, Sannathi Street, Subramaniaya Nagar,
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3.The Executive Officer,
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Salem District.

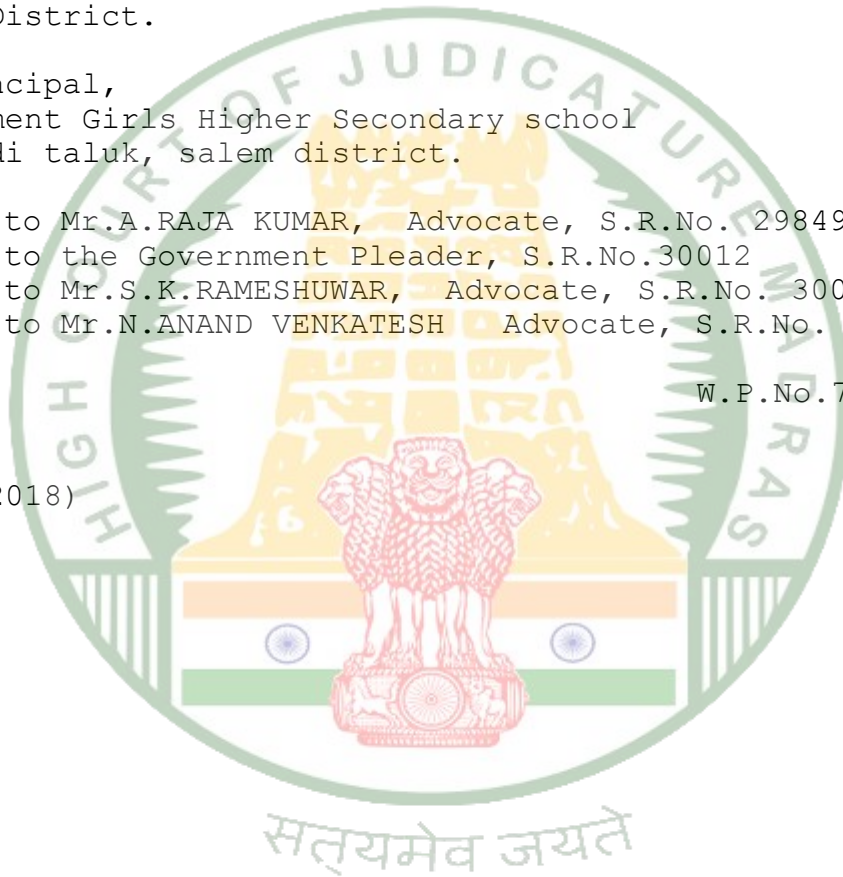
4.The Executive Engineer,
TANGEDCO (TNEB)
Valapaddi Town Panchayat,
Salem District.

5.The Principal,
Government Girls Higher Secondary school
valapadi taluk, salem district.

+1cc to Mr.A.RAJA KUMAR, Advocate, S.R.No. 29849
+1cc to the Government Pleader, S.R.No.30012
+1cc to Mr.S.K.RAMESHUWAR, Advocate, S.R.No. 30098
+1cc to Mr.N.ANAND VENKATESH Advocate, S.R.No. 29281

W.P.No.7401 of 2018

KK(CO)
TR(23/04/2018)



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