

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.01.2018

Coram

THE HONOURABLE **Mr. JUSTICE M.VENUGOPAL**
AND

THE HONOURABLE **Mr. JUSTICE S.VAIDYANATHAN**

W.P.No.7537 of 2017

P.Viswanathan

.. Petitioner

Vs.

1.The District Collector,
Krishnagiri

2. The Sub Collector,
Hosur,

3. The Member Secretary,
Hosur New Town Development Authority
25/2, Nethaji Road,
Hosur – 635 109

4. The Commissioner
Hosur Municipality,
Hosur

5. S.Murugan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus by directing the respondents 3 and 4 to take action against the 5th respondent for illegal construction of building at Plot No.3, Survey No.312/1A, Ganapathy Nagar, Thally Road, Hosur, Krishnagiri District, on the basis of notice dated

29.09.2014 issued in Na.Ka.No.6322/2014/F-1 and notice issued in Na.Ka.No.1432/2014/HNTDA dated 07.10.2014 by the 3rd and 4th respondents respectively and demolish the same within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.A.N.Thambidurai for R1 to R3
Special Government Pleader
Mr.P.Srinivas for R4
Mr.V.P.K.Goutham for R5

ORDER

[Order of the Court was made by S.VAIDYANATHAN J.,]

The petitioner has come forward with this Writ Petition to direct the respondents 3 and 4 to take action against the 5th respondent for illegal construction of building at Plot No.3, Survey No.312/1A, Ganapathy Nagar, Thally Road, Hosur, Krishnagiri District, on the basis of notice dated 29.09.2014 issued in Na.Ka.No.6322/2014/F-1 and notice issued in Na.Ka.No.1432/2014/HNTDA dated 07.10.2014 by the 3rd and 4th respondents, respectively, and demolish the same.

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2. According to the petitioner, he is the absolute owner of Plot No.12, Thally Road, Appavu Nagar, Hosur and residing with his family for more than seven years. Further, the 5th respondent is the owner of

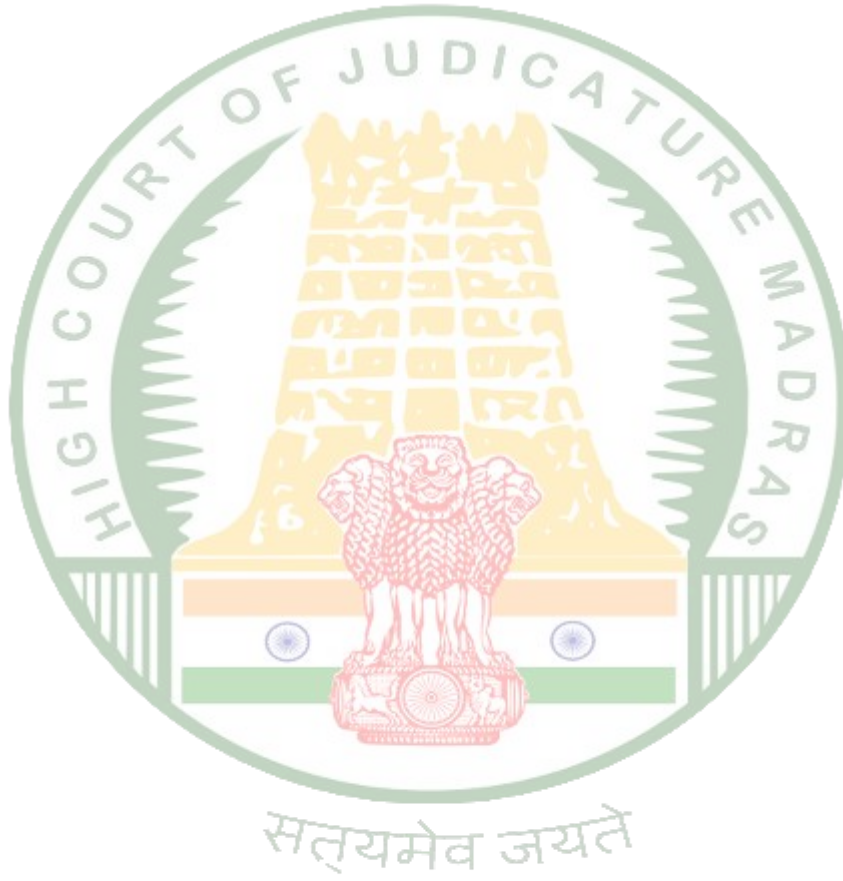
Plot No.3, Thally Road, Ganapathy Nagar, Hosur, which measures an extent of 600 sq.ft., and Ganapathy nagar is behind Appavu Nagar. In the year 2004, the 5th respondent removed the asbestos sheet roofs and extended the construction by one floor, ie., ground and 1st floor. Subsequently, in the year 2012, without obtaining any building permission from the Hosur Municipality, the 5th respondent constructed a building consisting of 4 floors in a land measuring an extent of 600 sq.ft. Moreover, the 5th respondent has not even left a single sq. ft., as side set back, therefore, the petitioner together with his neighbours has addressed a representation dated 15.09.2014 to respondents 1 to 4. Immediately, the 3rd respondent has issued a notice dated 07.10.2014 calling upon the 5th respondent to submit the sanctioned building plan within 3 days, failing which to stop the construction activities. But, the 5th respondent has not complied with the same. That apart, the 5th respondent is not entitled to use the building for any purpose, as the construction is in utter violation of Statutory Rules. Since, respondents 3 and 4 are not taking any action against the 5th respondent, the petitioner has filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that the petitioner has constructed the building in accordance with the plan and that there are no violations. He also submitted that in and around the property in question, several buildings have been constructed, violating the Rules.

4. A detailed counter affidavit has been filed by the 4th respondent, wherein it has been stated that the 5th respondent had applied for a building permission on 16.04.2013 for reconstruction of building after demolishing the existing structure. The permission was sought for constructing ground plus first floor for residential use. However, contrary to the permission for demolition and reconstruction, the 5th respondent started to put up additional construction over the existing construction and had built 2nd and 3rd floors. It is stated that the 5th respondent's building structure is unsafe, since it was built on top of a cantilever beam with 4.5 inch wall and thereby pleaded to pass appropriate orders.

5. Heard the learned counsel on either side and perused the documents available on record.

6. Admittedly, this Court cannot address the issue of persons, who are not parties to the Writ Petition and if there is any violation, it is for the respondents concerned to initiate action against those persons and remove the illegal construction. In the present case, the 5th respondent is said to have applied for demolition and reconstruction of the building on 16.04.2013 and that as on date, the building plan has not been sanctioned. Such being the situation, without the building plan, the 5th respondent has constructed not only the ground and 1st floor, but, he has constructed 2nd and 3rd floors over just 4.5 inch wall, as could be seen from Paragraph Nos.3 and 4 of the counter affidavit filed by the 4th respondent. It is also stated that there is no set back and that the building has been constructed on a cantilever beam with 4.5 inch wall. Hence, such extended construction shall be demolished by the authorities concerned within a period of one month from the date of receipt of copy of this order and necessary charges towards demolition can be collected from the 5th respondent. It is needless for this Court to state that if there are any violations caused by persons of that area, action shall be initiated against them and buildings are brought within the parameters of sanctioned plan.



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M.VENUGOPAL, J.
and
S.VAIDYANATHAN, J.

ssd

With the aforesaid observation(s) and direction(s), the Writ
Petition stands disposed of. No costs.

Speaking / non Speaking order (M.V.J.) (S.V.N.J.)

08.01.2018

Index :Yes / No

Internet :Yes / No

ssd

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