

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.7520/2018 & WMP.No.9363/2018

N.K.Jagadish Kumar

..

Petitioner

Vs

1.The District Collector

State of Tamil Nadu

Nilgiris District,

Udhagamandalam 643 001.

2.The Commissioner

Udhagamandalam Municipality

Udhagamandalam

Nilgiris District.

3.Sister B.K.Rajeshwari

..

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st and 2nd respondents to demolish and permanently remove the illegal, unsanctional and unauthorised construction carried out/being carried by the 3rd respondent at Door Nos.418 and 419, in Ward No.11 of Udhagamandalam Municipality comprised in New Survey No.E/19-50, old survey No.1972/1, at Victoria Hall, Ettimess Road, Udhagamandalam, Nilgiris.

For Petitioner : Mr.s.IIambharathi

For R1 : Mr.A.N.Thambidurai, Spl.GP

For R2 : Mr.A.Kadarkarai

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mr.A.Kadarkarai, learned counsel accepts notice on behalf of the 2nd respondent.

2 It is the case of the petitioner that the land admeasuring to an extent of 1740 sq.ft., together with ground and first floors of the plot bearing Door Nos. 418 and 419 in Ward No.11 of Udhagamandalam Municipality comprised in RS.No.1972/1 of the said Municipality is owned by him and the

superstructure exist therein is aged about 94 years. The petitioner would aver that his father [late] Kappini Gowder got influenced by the teaching and tenets of Brahma Kumaris and was associated with Rajapita brahma Kumaris Ishwriya Vishva Vidyalaya, Pandava Bhawan, Mount Abu, Rajasthan, which had its Branch at Udhagamandalam and his father wished and desired to gift the first floor of the said building in favor of the said Organisation and accordingly, it was gifted in favour of the said Organization. The grievance now expressed by the petitioner is that the superstructure is aged 94 years old and after accepting the gift, the said Organization is putting up unauthorised structure without any planning permission or license whatsoever, from the concerned authorities and in that event, the building is likely to collapse. The petitioner, in this regard, has submitted a representation dated 20.08.2016 to the 2nd respondent followed by Legal Notice dated 11.12.2017 to the 3rd respondent and in response to the same, the 3rd respondent, through his lawyer, has sent a reply notice dated 28.12.2017 denying the said allegation and also indicated that no fresh construction nor any additional construction are proposed to be laid by the said Organization on the said superstructure.

3 The learned counsel for the petitioner has drawn the attention of this Court to pages No.57 to 59 of the typed set of documents and would submit that despite such an averment in the Reply Notice dated 28.12.2017, additional construction has been put up on the first floor and since the building is likely to collapse on account of old age, immediate and urgent action is necessary and prays for appropriate orders.

4 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the 1st respondent and Mr.A.Kadakarai, learned counsel appearing for the 2nd respondent and perused the materials placed before it.

***5.This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 2nd respondent to cause inspection of the premises bearing Door Nos.418 and 419 in Ward No.11 of Udhagamandalam Municipality comprised in New Survey No.E/19-50 Old Survey No.1972/1 at Victoria Hall, Ettiness Road, Udhagamandalam, Nilgiris, after putting the petitioner as well as the 3rd respondent on notice and the said exercise is to be carried out within a period of four weeks from the date of receipt of a copy of this order and depending upon the said inspection, the 2nd respondent is directed to take appropriate action in accordance with law within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as to the 3rd respondent.**

6 The writ petition stand disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar
dt.11.4.2018

*Amended as per order of this
Court dated 20.4.2018
Sd/-
Assistant Registrar (CS IV)
dt.27.4.2018

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector
State of Tamil Nadu
Nilgiris District,
Udhagamandalam 643 001.

2.The Commissioner
Udhagamandalam Municipality
Udhagamandalam
Nilgiris District.

+2cc to Mr.S.Ilambharathi, Advocate SR.No.24122, 29359
+1cc to Mr.S.Kadarkarai, Advocate Sr.No.24138
+1cc to Government Pleader Sr.No.29963

GSP (CO)
sm:27.4.2018

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