

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P No.11171 of 2014
and M.P.No.1 of 2014

Arunachalam

..Petitioner

Vs

1.The Municipal Commissioner,
Coimbatore Municipal Corporation,
Coimbatore - 641 001.

2.Mr.Chinnasamy .. Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent's notice in Na.Ka.No.34631/2013/M.H.1(May) dated 19.3.2014 and quash the same and consequently restraining the 1st respondent from proceeding further as mentioned in the above notice.

For Petitioner : Mr.C.Deivasigamani

For Respondents : Mr.K.Mahesh, for R1
No appearance for R2

O R D E R

Heard Mr.C.Deivasigamani, learned counsel for the petitioner, Mr.K.Mahesh, learned counsel for the first respondent. Despite service of notice on the second respondent and his name being printed in the cause list as Mr.Chinnasamy, there is no appearance either in person or through counsel.

2. The petitioner has come forward with the present writ petition for issuance of writ of certiorarified mandamus to quash the notice issued by the first respondent in Na.Ka.No.34631/2013/M.H.1(May) dated 19.3.2014 and consequently direct him not to proceed.

3. The learned counsel for the petitioner would submit that the first respondent had issued a impugned notice, based on the order passed in W.P.No.34631 of 2013 filed by the second respondent. It is the contention of the petitioner that only at the instigation of the second respondent, the impugned notice came to be issued without providing an opportunity of hearing to the petitioner and that the construction has been made only according with the plan approved and there is no deviation, if an opportunity is given

to the petitioner, he would be established the same before the first respondent.

4. The learned Standing Counsel appearing for the first respondent would submit that the impugned order was passed only after issuing a notice to the petitioner on 29.1.2014.

5. It is to be noted that though it is contended that prior notice was issued by the first respondent, no material is placed in support of his case. Considering the facts of the case, I am of the view that the respondent ought to have given an opportunity of personal hearing to the petitioner to put forth his case.

6. In such view, the impugned order is quashed and the matter is remitted back to the first respondent to pass orders afresh in accordance with law, after providing an opportunity of personal hearing to the petitioner as well as other necessary parties.

7. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

ms

To

The Municipal Commissioner,
Coimbatore Municipal Corporation,
Coimbatore - 641 001.

+ 1 cc to MR. C. Deiva Sigamani, Advocate Sr.27746

+ 1 cc to Mr. K. Magesh, Advocate Sr.27649

(CS-DR)
EU(07/05/2018)

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