

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7788 of 2018 and W.M.P.No.9703 of 2018

1 K.Sundarraaj
S/o. Late.P.M. Krishnappa,
Door No. 58, Rayakottai Road,
Hosur, Krishnagiri District. ... PETITIONER

Vs.

1 The District Collector
Collectors Office Krishnagiri.
2 The Tahsildar
Hosur Taluk,
Krishnagiri District. ... RESPONDENTS

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, to call for the records in ROC.A1/28623/2016 dated 16.03.2018 on the file of the 1st respondent quash the same and consequently to direct the 2nd respondent to issue Building Licence to the petitioner's R.K.Mahal Kalyana Mandapam, Hosur.

For Petitioner : Mr.A.Immanuel
For Respondents : Mr.I.Sathish,
Addl.Govt. Pleader

सत्यमेव जयते

O R D E R

This writ petition is directed against the impugned order, dated 16.3.2018 issued by the first respondent herein wherein he has mentioned that the Municipal Commissioner, Hosur has also inspected the building and found various irregularities in the constructed building compared to approved plan. In this connection, the Tahsildar, Hosur has been instructed to take necessary action by considering the objections raised by pattadars in granting the public building licence and show cause notice was also issued by the Municipal Commissioner, Hosur.

The Tahsildar, Hosur was also directed to take necessary steps to check the convenience of the public who are booked the marriage hall before issuing the cancellation order.

2 The learned counsel for the petitioner submits that the petitioner is one of the owners of the building in question. R.K.Mahal Kalyana Mandapam comprised in T.S.No.28, Block No.18, Ward-E, Hosur Town, formerly S.No.937/2A, situated in Chinathur Village, Hosur Taluk, originally belongs to the petitioner's father P.M.Krishnappa. After his demise, the said property is being jointly owned by the petitioner along with the members of the petitioner's family. The aforesaid Kalyana Mandapam is being administered by the petitioner along with the petitioner's brother Mr.Amarjyothi. In the meanwhile, the petitioner's sisters Mrs.K.Padmavathi @ Girija and Mrs.K.Sampath Lakshmi filed a suit for partition in O.S.No.86 of 2011 before the District Court, Krishnagiri in respect of R.K.Mahal Kalyana Mandapam, wherein the petitioner is the second defendant. The petitioner along with his brother Mr.K.Amarjyothi filed a suit for permanent injunction in O.S.No.35 of 2012 before the learned Sub Judge, Hosur for permanent injunction restraining the petitioner's mother Mrs.V.Rajamma, petitioner's brother Mr.K.Devandaran, and petitioner's sister Girija @ Padmavathi and Sampath Lakshmi from interfering in the possession and management of R.K.Mahal Kalyana Mandapam till the disposal of the partition suit pending in O.S.No.86 of 2011 before the learned Principal Judge, Krishnagiri. Finally, after the said suit was transferred to the Additional District Judge, Hosur, the same was dismissed for non prosecution. Subsequently, application in I.A.No.1 of 2017 for restoration of the said suit was also dismissed. Challenging the said order, the petitioner has filed C.M.A.No.2460 of 2017 and the same was allowed on 6.12.2017 restoring the suit in O.S.No.83 of 2016 on the file of the Additional District Judge, Hosur along with interim order. Further, direction was also given to the Additional District Judge, Krishnagiri to transfer the said suit to the Additional District Judge, Hosur to be tried along with O.S.No.86 of 2011. In the meanwhile, the petitioner's mother Mrs.V.Rajammal submitted a representation to the Commissioner, Hosur Municipality, Hosur to cancel the building licence issued in favour of R.K.Mahal, Kalyana Mandapam. Mrs.Rajamma also filed W.P.No.30223 of 2016 seeking a direction to the respondents herein as well as the Municipality Commissioner, Hosur to pass orders on her representation, dated 15.7.2015. After inspection made by the second respondent herein, a report also has been submitted to the first respondent herein on 2.12.2016 recommending for issuance of public building licence to R.K.Mahal Kalyana Mandapam. Pursuant thereto, the first respondent herein has issued the impugned memo on 16.3.2018 without any authority.

3 Counsel for the petitioner would submit that the Tahsildar, Hosur, the second respondent herein is not the recommending authority and he is the issuing authority and the first respondent is an Appellate Authority as per Section 7 of the Act. The first respondent who is an Appellate Authority ought not have issued the impugned memo as it is without jurisdiction and the same is liable to be set aside.

4. A perusal of the impugned order clearly shows that the Tahsildar, Hosur inspected the building recommended for public building licence and the Municipal Commissioner has also inspected the building and found some irregularities in the constructed building compared to the approved plan. In view of the various irregularities found in the building compared to the approved plan, the Tahsildar, Hosur has been directed to take necessary action by considering the objections raised by the pattadars in granting public building licence. Therefore, the petitioner has to approach the Tahsildar, Hosur as the impugned memo issued by the first respondent has given sufficient protection to the petitioner.

5 In view of the above, the writ petition is dismissed with liberty to the petitioner to approach the District Collector, Krishnagiri, the first respondent herein with all booking receipts if any, and the Tahsildar, Hosur before taking any final call to cancel the licence to R.K.Mahal Kalyana Mandapam. The respondents herein will look into the booking order given by the petitioner to other persons who are also booked Mandapam for the purpose of marriage function and other functions. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1 The District Collector
Collectors Office Krishnagiri.

2 The Tahsildar
Hosur Taluk,
Krishnagiri District.

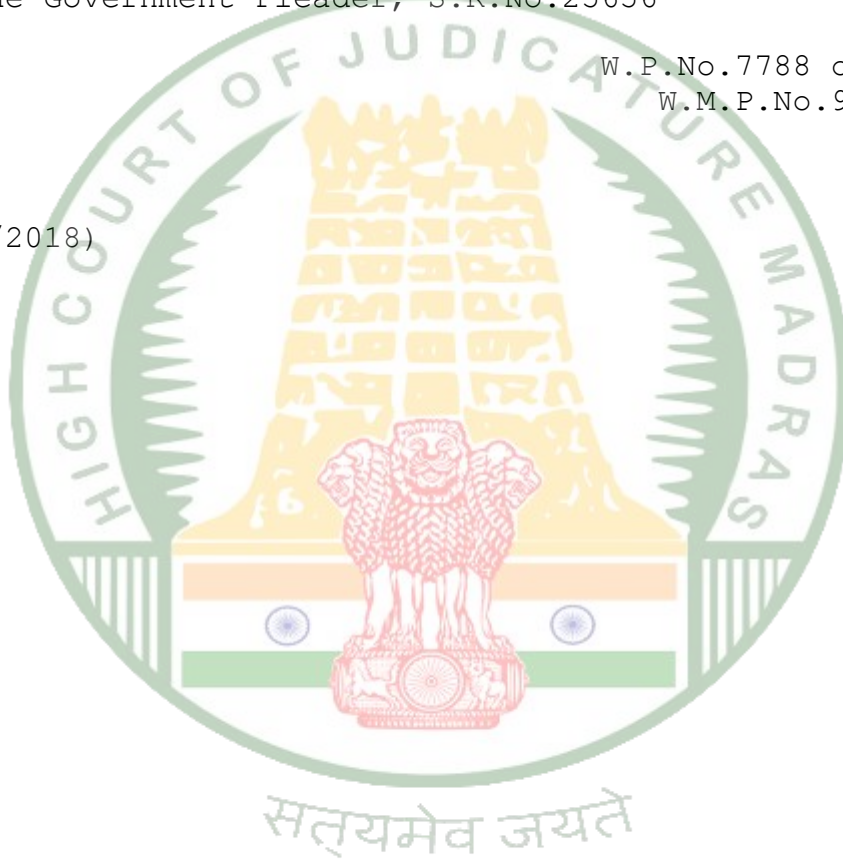
+1cc to Mr.A.Immanuel, Advocate, S.R.No.24887

+1cc to the Government Pleader, S.R.No.25656

W.P.No.7788 of 2018 and
W.M.P.No.9703 of 2018

SJ(CO)

RRK(28/04/2018)



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