

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.11277 of 2018
& WMP No.13175 of 2018

M.Shyam Ali

...Petitioner

Vs.

1. The District Collector,
Salem District,
Salem.

2. The Commissioner,
Salem City Municipal Corporation,
Salem.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to forbear the 2nd respondent from constructing the building in the petitioner property in survey No.70/2 at measuring to extent of 0.1138.5 cent situated at Bodinayakanpatti Village, Salem District and subsequently directing the respondents to remove the unlawful construction in the petitioner property pursuant to his representation dated 20.04.2018.

For Petitioner : M/s.A.G.Narasimhan
For Respondents : Mr.B.Anand, G.A. (for R1)
Miss.K.Bhuvaneswari (for R2)

ORDER

Mr.B.Anand, learned Government Advocate takes notice for the 1st respondent and Miss.K.Bhuvaneswari, learned Standing Counsel takes notice for the 2nd respondent. By consent of the learned counsel appearing for the parties, the Writ Petition is taken up for final hearing at the admission stage itself.

2. The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus to forbear the 2nd respondent from constructing the building in the petitioner's property in survey No.70/2, situated at Bodinayakanpatti Village, Salem District, based on his representation dated 20.04.2018.

3. According to the learned counsel for the petitioner, the land in dispute belongs to him and the 2nd respondent without any authority had started constructing a building in his land. It is further submitted that it would suffice, if a direction is issued to the second respondent to consider the representation of the petitioner.

4. The learned Standing Counsel for the 2nd respondent submitted that the property in dispute was already gifted to the Salem city Municipal Corporation and in respect of the same property a Writ Petition filed by some other person was dismissed.

5. In the light of the facts and submissions of the learned counsels on either side, this Court without going into the merits of the case, directs the second respondent to consider the representation of the petitioner dated 20.04.2018 and pass orders purely on merits and in accordance with law, within a period of two weeks, from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

pvs

To

1. The District Collector,
Salem District, Salem. सत्यमेव जयते

2. The Commissioner,
Salem City Municipal Corporation

+1cc to Mr.M.Subash, Advocate, sr.no.32220

+1cc to K.Bhuvaneswari, Advocate, sr.no.32349

+2cc to the Government Pleader, sr.no.32808 & 32777(respondent)

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RJ(CO)
RRK(30/05/18)