

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25197 of 2017
and
W.M.P.No.26640 of 2017

Ravammal

.. Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Office of the Collector,
Thiruvallur.
2. The Assistant Director (Panchayat)
District Collector Office,
Thiruvallur District.
3. The Block Development Officer (Panchayat)
Poondi Panchayat Union,
Poondi Post, Thiruvallur District.
4. The Executive Officer and President,
Nandhimangalam Village,
Pondavakkam Post,
Uthukottai Taluk,
Thiruvallur District.

5. K.Ravichandran @ Ravishankar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to implement the order dated 29.10.2015 in Na.Ka.No.4/2012-2013 passed by the fourth respondent in demolishing the superstructure situated at Grama Natham House site comprised in Survey No.109/19, Old Survey No.69/3, measuring an extent of 109 Square Meters at Nandhimangalam Village, Pondavakkam Post, Uthukottai Taluk, Thiruvallur District, belonging to the fifth respondent.

For petitioner : Mr.M.L.Ramesh

For respondents: Mr.A.N.Thambidurai, Spl.G.P. for RR-1 to 4
Mr.A.Palaniappan for R-5

ORDER

(The Order of the Court was made by S.Vaidyanathan, J)

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to implement the order dated 29.10.2015 in Na.Ka.No.4/2012-2013 passed by the fourth respondent in demolishing the superstructure situated at Grama Natham House site comprised in Survey No.109/19, Old Survey No.69/3, measuring an extent of 109 Square Meters at Nandhimangalam Village, Pondavakkam Post, Uthukottai Taluk, Thiruvallur District, belonging to the fifth respondent.

2. According to the petitioner, the petitioner is the owner of the property situated in Survey No.109/19, Old Survey No.69/3 measuring an extent of 109 Square Meters at Nandhimangalam Village, Pondavakkam Post, Uthukottai Taluk, Thiruvallur District. It is alleged by the petitioner that the fifth respondent has encroached on the Western side of the said property by removing the superstructure put up by the petitioner and started constructing the building.

3. It is further submitted by the petitioner that the contesting fifth respondent has preferred a Writ Petition in W.P.No.40774 of 2015 and a Division Bench of this Court, by order dated 06.01.2016, has permitted the said fifth respondent to prefer an appeal under the provisions of Rule 29(3) of the Tamil Nadu Panchayat Building Rules, as could be seen from paragraph 5 of the said order of the Division Bench. Since there is an encroachment in the property in question, the petitioner herein has preferred W.P.No.25356 of 2016 in which the fifth respondent herein has been shown as third respondent and another Division Bench of this Court, by order dated 21.07.2016, permitted the petitioner to approach the respondent-authority or else, she can also get herself impleaded in the appeal by the said fifth respondent and take all available defences for disposal of the said appeal in accordance with law by the appellate authority. It is seen that no appeal has been preferred by the petitioner herein and the petitioner has now approached this Court with the present Writ Petition seeking for enforcement of the order passed by the fourth respondent, dated 29.10.2015.

4. More than two years have gone-by from the date of the said order, dated 29.10.2015 passed by the fourth respondent. Admittedly, no appeal has been preferred by the petitioner, even

though this Court as stated supra, has granted permission to the petitioner to approach the appellate authority by order dated 21.07.2016 passed in W.P.No.25356 of 2016. Even after that order, almost more than 1-1/2 years have gone-by. Since there is no interim order operating against the said order of the fourth respondent, dated 29.10.2015, there is no legal impediment on the part of the authority concerned in removing the encroachment in question, as per the said order dated 29.10.2015 passed by the fourth respondent. Such exercise shall be carried out by the authority concerned within a period of one month from the date of receipt of a copy of this order.

5. If the officials who is/are responsible, fails to initiate action for demolition of the violated portions, disciplinary action needs to be initiated and major punishment should be imposed. If the person who is responsible to initiate disciplinary action, fails to do so, he/she shall be divested of the post, i.e. the person can be even dismissed from service. The details of the person(s) mentioned in this paragraph of this order, need to be furnished to the Registrar General of this Court within 15 days from the date of receipt of a copy of this order.

6. With the above observations and direction, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Thiruvallur District, Office of the Collector,
Thiruvallur.
2. The Assistant Director (Panchayat)
District Collector Office,
Thiruvallur District.
3. The Block Development Officer (Panchayat)
Poondi Panchayat Union,
Poondi Post,
Thiruvallur District.

4. The Executive Officer and President,
Nandhimangalam Village,
Pondavakkam Post,
Uthukottai Taluk,
Thiruvallur District.

5. The Registrar General, High Court, Madras.

+ 1 cc to Mr.A.Palaniappan Advocate,SR.616

+ 1 cc to M/s.N.B.Surekha Advocate,SR.422

+ 1 cc to The Govt.Pleader, SR.449

W.P.No.25197 of 2017

nr 18/01/2018



WEB COPY