

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.24570 of 2018 and
WMP Nos.28604 and 28605 of 2018

P.Selvarajan

...Petitioner

-vs-

- 1.The Commissioner,
Directorate of Town and Country Planning
Chengalvarayan Building
4th Floor, 807, Anna Salai, Chennai - 600 002.
- 2.The Deputy Director,
Directorate of Town and Country Planning,
Salem Region, Sooramangalam, Salem,.
- 3.The Commissioner,
Attur Municipality,
Municipality office, Attur - 636 102.
Salem District.
- 4.Executive Engineer,
(Operation and Maintenance)
TANGEDCO, Attur Town,
Salem District - 636 102.

5.L.Gopal

6.Padmavathi

(6th respondent impleaded

vide order dated 31.10.2018 and made in W.P.No.24570 of 2018)

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the 2nd and 3rd respondents to initiate action as per Section 56 and 57 of the Town and Country Planning Act, 1971 against the 5th respondent and to demolish the illegal building constructed by the 5th respondent without any building plan approval within a time stipulated by this court.

For Petitioner : Mr.K.Rajasekaran

For Respondents: Mrs.Thanga Vadhana Balakrishnan
Addl.Govt.Pleader for R1 and R2
Mr.A.S.Thambuswamy for R3
Mr.S.K.Rameshwar for R4
Mr.K.Mohanamurali for R6
R5 not ready in notice

O R D E R

[Order of the Court was delivered by
K.K.SASIDHARAN, J.]

This Writ Petition filed in pro bono publico by a senior citizen, seeks enforcement action against the commercial building put up by the fifth respondent, at Attur, without obtaining planning permission.

2. The petitioner has alleged that in Attur Town, with the blessings of the statutory authorities, several buildings have come up in violation of the building regulations. When the petitioner called upon the Commissioner, Attur Municipality, to take action against the building constructed by the fifth respondent, he was informed that Municipality has no records to show as to when the building was constructed. The petitioner, therefore, filed the Writ Petition to make the enforcement machinery moving to pull down the illegal structure.

3. The third respondent, after receiving notice from this Court, inspected the commercial building in question and filed a status report. In paragraphs 3 and 4 of the report, the Commissioner indicated the nature of construction and violation of the provisions of the statute.

4. The respondents 3 and 4 appeared before this Court on 30.10.2018. The Commissioner, Attur Municipality, has given an undertaking that enforcement action would be taken to seal the unauthorized structure. The Executive Engineer, TANGEDCO, Attur, informed the Court that electricity connection to the illegal building would be disconnected. We have therefore passed a detailed order on 30 October 2018.

5. The Commissioner, Attur Municipality and the Executive Engineer, TANGEDCO, Attur filed separate status reports on 31 October 2018 indicating the enforcement action. According to the Commissioner, the commercial portion of the building was sealed. Similarly, electricity connection to the commercial building was disconnected.

6. The learned counsel for the 6th respondent submitted that in case, an opportunity is given, his client would produce the sanctioned plan before the Municipality.

7. This writ petition gives a sorry state of affairs in the Attur Municipality. There is a mushroom growth of buildings in and around Attur Municipality without obtaining planning permission. The inaction on the part of the Attur Municipal Council against the illegal structures appears to be the reason for this mushroom growth of illegal structure.

8. We direct the Commissioner, Attur Municipality and the Deputy Director, Directorate of Town and Country Planning, Salem Region as well as the Local Planning Authority to inspect the commercial and residential buildings constructed within the municipal limit and take action in case such buildings were constructed without planning permission or without adherence to the sanctioned plan. Enforcement action should be taken in accordance with the provisions of the Tamil Nadu Town and Country Planning Act, 1971. In case, action is not taken, the concerned officials would be personally liable.

9. Insofar as the building constructed by the 5th respondent is concerned, which is presently in the ownership of the 6th respondent, it appears that Municipality has already taken enforcement action. The Municipality must take follow up action by issuing notice to the owner of the building whose name is mutated in the revenue records and the occupiers. In case, it is established that the 6th respondent is the present owner, notice should be issued to her also. There should not be any action at the instance of the local body to regularise the constructions unless there is a statutory provision permitting such regularisation.

10. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

svki

To

1.The Commissioner,
Directorate of Town and Country Planning
Chengalvarayan Building
4th Floor, 807, Anna Salai, Chennai - 600 002.

2.The Deputy Director,
Directorate of Town and Country Planning,
Salem Region, Sooramangalam, Salem,.

3.The Commissioner,
Attur Municipality,
Municipality office Attur - 636 102.
Salem District.

4.Executive Engineer,
(Operation and Maintenance)
TANGEDCO, Attur Town,
Salem District - 636 102.

+1 CC to Mr.S.K.Rameshwar, Advocate sr 75372.
+1 CC to mr.K.Mohanamurali, Advocate sr 74752.
+1 CC to Mr.A.S.Thambuswamy, Advocate sr 74737
+1 CC to Govt. Pleader sr 75268.
+1 CC to Mr.K.Rajasekaran ,Advocate sr 75782.

W.P.No.24570 of 2018

RSY(CO)
SP(19/11/2018)

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