

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No13033 of 2008
and
W.M.P.No.3706 of 2018

Impact International Trust,
Represented by its Trustee,
Mr.P.David Prince,
No.1, Naicken Palayam,
Periyanaicken Palayam Post,
Coimbatore - 641 020. ... Petitioner

Vs.

The Revenue Divisional Officer &
Sub Divisional Magistrate,
Coimbatore,
Coimbatore District. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari, to call for the records of the proceeding in reference No.4052/08/A2, dated 25.4.2008 on the file of the Revenue Divisional Officer and Sub Divisional Magistrate, Coimbatore, Coimbatore District and quash the same.

For Petitioner : Ms. AL.Gandhimathi

For Respondent : Mr.N.Inbanathan,
Additional Government Pleader

O R D E R

This writ petition has been filed to quash the proceedings of the respondent in reference No.4052/08/A2, dated 25.4.2008.

2. Heard Ms.AL.Gandhimathi, learned counsel for the petitioner, Mr.N.Inbanathan, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The impugned order has been passed by the respondent under Section 133 of Cr.P.C., directing the petitioner to cease carrying on the construction activities in S.No.462 situated at Naickenpalayam Village, Coimbatore North Taluk.

4. The impugned order has been assailed by the petitioner on the grounds that the respondent has no jurisdiction and it was passed in total violation of the principles of natural justice.

5. The learned counsel for the petitioner submitted that the Member Secretary, Coimbatore Local Town Planning Authority had issued a notice under Sections 49, 56 and 57 of Tamil Nadu Town and Country Planning Act, 1971, alleging violation of building permission, which was challenged by the petitioner in W.P.No.9438 of 2011, wherein the Division Bench of this Court allowed the petition directing the respondent therein to inspect the building and thereafter, take action in accordance with law.

6. It is not in dispute that the petitioner was not provided with an opportunity of personal hearing before passing the order. Further, in view of the order passed in W.P.No.9438 of 2011, dated 03.01.2017, the petitioner is entitled to succeed in this writ petition.

7. In that view this writ petition is allowed and the impugned order is set aside. The competent authority shall take action against the petitioner, if there is any violation of rules in accordance with law. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ms

To

The Revenue Divisional Officer &
Sub Divisional Magistrate,
Coimbatore,
Coimbatore District.

+ 1 cc to Mr. Government Pleader SR.28460

+ 1 cc to Mr.A.L.Ganthimathi, Advocate Sr.28748

W.P.No13033 of 2008

CA(CO)
EU(09/05/2018)