

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 11.07.2018
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.15701 of 2009

M.J.Mohamed Kasim

...Petitioner

Vs

1. The Executive Officer,
Kuruchi Municipality,
Pothanur, Coimbatore Taluk
 2. The Commissioner,
Corporation of Coimbatore, Coimbatore.
- ..Respondents

[R2 is suo motu impleaded, as per the order
of this Court dated 11.07.2018]

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the respondent dated 10.07.2009 in Ka.Ma.No.619/08-09/A5 and quash the same and consequently direct the respondent not to remove the shed put up by the petitioner to an extent of 990 Sq.ft., bearing plot Nos.2 & 3, Madhukarai Main Road, Sundarapuram, Coimbatore - 24.

For Petitioner : Mr.B.Nedunchezhiyan
For Respondents : Mr.R.Sivakumar

ORDER

This writ petition has been filed challenging the order of the Kuruchi Municipality, dated 10.07.2009, directing the petitioner to remove the additional construction.

2. It seems that the petitioner had obtained an approval from the Municipality to construct a building to an extent of 990 sq.ft. in Plot Nos.2 & 3 on Madhukarai Main Road, Sundarapuram, Coimbatore, however in violation of the same, he made additional construction to an extent of 2550 sq.ft. After issuing show cause notice, the final impugned notice has been passed by the respondents.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

4. During the pendency of this writ petition, in M.P.No.2 of 2009, this Court by an order dated 12.10.2009, granted interim injunction in respect of the building to an extent of 990 sq.ft. and permitted the respondent-Municipality to remove the excess construction.

5. The learned Standing Counsel for the respondents submitted that even before grant of interim injunction dated 12.10.2009, the respondent had removed the additional construction put up by the petitioner on 24.07.2009. However, subsequently, the petitioner again put up additional construction and the order of removal of additional construction was challenged by the petitioner in W.P.No.20392 of 2010, however, subsequently, it was withdrawn.

6. It is submitted by the learned counsel for the petitioner that admittedly the petitioner had obtained planning permission for an extent of 990 sq.ft. and if there is any additional construction put up by him, the respondent can measure the property and remove the the same in accordance with law.

7. In light of the above submissions and considering the facts of the case, if there is any excess construction put up by the petitioner, as per the representation of the learned Standing Counsel for the respondents, the respondent shall remove the additional construction after due measurement of the property.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Executive Officer,
Kuruchi Municipality,
Pothanur, Coimbatore Taluk

2. The Commissioner,
Corporation of Coimbatore, Coimbatore.

+lcc to Mr.R.Sivakumar, Advocate, S.R.No.45431
+lcc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.45264

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KJI (CO)
GSP(07/08/2018)



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