

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.04.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P. No.17680 of 2010 &
M.P.No.3 of 2010

K.Shanmugavel Mudaliar

.. Petitioner

Vs.

- 1.The Secretary,
Government of Tamil Nadu,
Department of Local Administration,
Fort St. George, Chennai - 9.
- 2.The District Collector,
Kanchipuram District,
Kanchipuram.
- 3.The Commissioner /
Block Development Officer,
Punitha Thomaiyarmalai Panchayat Union,
Chittalapakkam, Chennai - 64.
- 4.The Tahsildar,
Alandur Taluk,
First Main Road, Nanganallur,
Chennai - 600 061.
- 5.The Special Tahsildhar,
Natham Land Survey,
Krishna Nagar,
Mudichur Road,
Tambaram, Chennai - 45.
- 6.The Executive Authority / President,
Pozhichalur First Grade Village Panchayat,
Chennai - 74.
- 7.The Vice President,
Pozhichalur First Grade Village Panchayat,
Chennai - 74.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in notice / proceedings dated 21.06.2010 and 20.07.2010 of the sixth respondent in R.C.No.7/2010/BL and quash the same and consequently forbear the respondents and their subordinates, from any way interfering, restrict or controlling with the possession and enjoyment of the petitioner in respect of

Gramanatham Survey No.210/2 extent of 6 acres out of 27.65 acres land in Pozhichallur Village, Alandur Taluk, Kancheepuram District on the ground that the Gramanatham property is a private property, irrespective of any building sheds or constructed or not such site, it never vest with the Government or panchayat.

For Petitioner : K.Shanmugavel Mudaliar
Party-in-person

For Respondents : Mr.V.Shanmugasundar
Special Government Pleader
for R1 to R5

Mr.J.Rajakalifulla for R6

Mr.G.Mohanraj for R7

O R D E R

Heard Mr.K.Shanmugavel Mudaliar, Party-in-person; Mr.V.Shanmugasundar, learned Special Government Pleader for the respondents 1 to 5; Mr.J.Rajakalifulla, learned counsel for the sixth respondent and Mr.G.Mohanraj, learned counsel for the seventh respondent and perused the records.

2. Assailing the demolition notice issued by the sixth respondent under Rule 34 of Tamil Nadu Panchayat Building Rules, 1997, the petitioner has filed the present Writ Petition. Demolition was ordered on the ground that the petitioner without planning permission had put up constructions.

3. The petitioner, who is appearing as party-in-person has submitted that at the time of issuance of the impugned order, the building did not have planning permission, however, during the pendency of this Writ Petition, the Competent Authority viz., the Block Development Officer / the third respondent herein have granted planning permission by an order dated 25.02.2011. It is further submitted that the seventh respondent has challenged the order in W.P.No.19912 of 2011 and the Division Bench of this Court had dismissed the Writ Petition on 31.01.2017 and prays to quash the order impugned in this Writ Petition.

4. The learned counsel for the respondents submitted that the Division Bench dismissed the Writ petition filed by the seventh respondent on the ground that his term of Office was already over and not on merits.

5. It is not in dispute that the impugned notice was issued on the basis that it was an unauthorized construction. However, during the pendency of the writ petition, the Competent Authority has granted planning approval in favour of the petitioner, which has become final. Hence, I do not find force in the contention of the learned counsel for the respondents.

6. In the light of the above facts, the petitioner is entitled to succeed in this Writ Petition. In that view, the order impugned in this Writ Petition is liable to be set aside and accordingly set aside. In the result, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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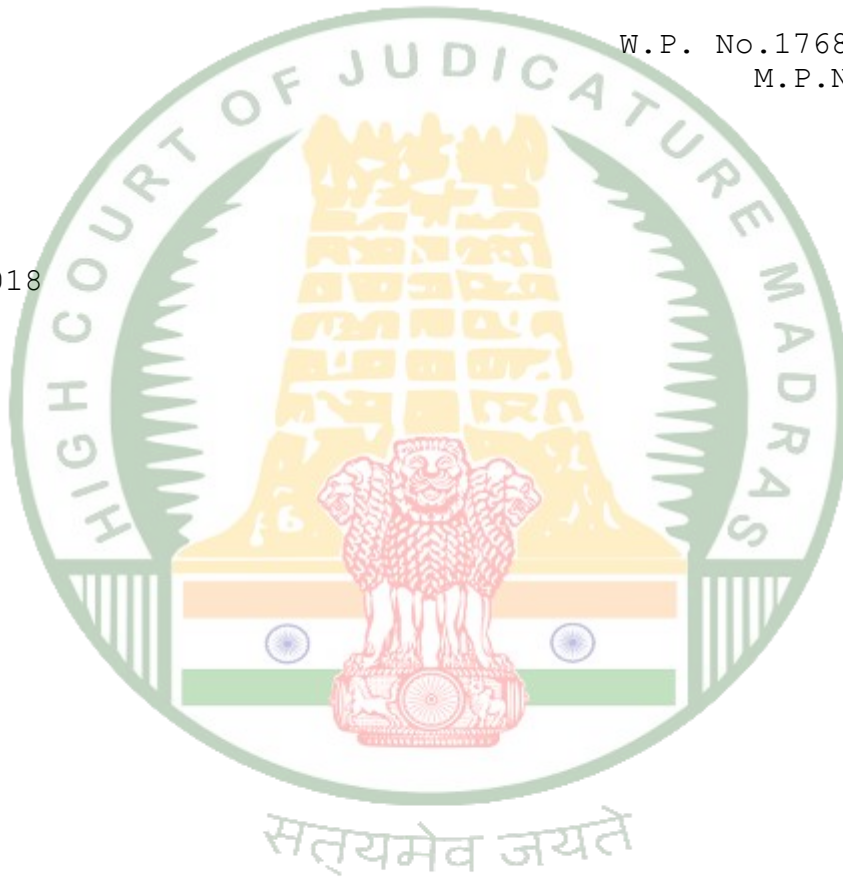
6.The Executive Authority / President,
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Chennai - 74.

7.The Vice President,
Pozhichalur First Grade Village Panchayat,
Chennai - 74.

+5 ccs to Mr.K.Shanmugavel Advocate sr26901
+1 cc to Mr.R.Asokan Advocate sr 27462
+1 cc to the Govt Pleader sr 27656

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M.P.No.3 of 2010

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