

1. IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2018

CORAM:

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

W.P.No.26172 of 2018 and
W.M.P.No No.30587 of 2018

V.Ulaganathan

...Petitioner

-vs-

The Commissioner,
Pallavapuram Municipality,
II Main Road, New Colony,
Chromepet, Chennai - 600 044.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondent culminating in his Notice cum order in N.F/5758/18-UAC No.9/2018 dated 20.08.2018 quash the same.

For Petitioner : Mr.V.Raghupathi

For Respondent : Mr.P.Srinivas

O R D E R

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

The challenge in this writ petition is to the Notice cum Order issued by the Pallavaram Municipality calling upon the petitioner to remove the illegal structure, failing which, it was indicated that further action would be taken for demolition and prosecution.

2. The petitioner is stated to be the owner of the land in S.Nos.31/2A1, 31/2A2 and 31/2A3, Om Sakthi Nagar, Extension No.20, Nemilicheri, Chennai. The petitioner without obtaining planning permission constructed a shed and started using it as a Badminton Court. Since it was a massive construction made without obtaining planning permission, the local authority initiated enforcement action, resulting in filing this writ petition.

3. We have heard the learned counsel for the petitioner. We have also heard the learned Standing Counsel for the respondent.

4. The factual matrix indicates that the petitioner has put up a huge building having an area of about 9,280 sq.ft. and he has been using the same as a Badminton Court. There was no layout approval which is a condition precedent for planning permission. The petitioner without any regard to the law of the land put up a building and even put the same into use. There is no equity in favour of the petitioner.

5. The learned Standing Counsel for the respondent submitted that the question of granting permission to the building would arise only after the approval of layout by the statutory authority.

6. The learned counsel for the petitioner submitted that the petitioner would comply with all the statutory requirements and till permission is given, the building would not be put to use.

7. The building in question is admittedly an illegal structure. Though it is a building with an asbestos roof, it would come within the definition of "building". The petitioner was therefore expected to obtain planning permission from the local authority.

8. The petitioner appears to have submitted application now for approval of the lay out. It is for the statutory authority to consider the said application on merits.

9. We make it clear that the petitioner shall not use the building in question till statutory approval is given by the authorities including the local body. In case, any attempt is made by the petitioner to open or use the building, the respondent must take action to seal it till approval is given by the authority.

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

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

svki

To

The Commissioner,
Pallavapuram Municipality,
II Main Road, New Colony,
Chromepet, Chennai - 600 044.

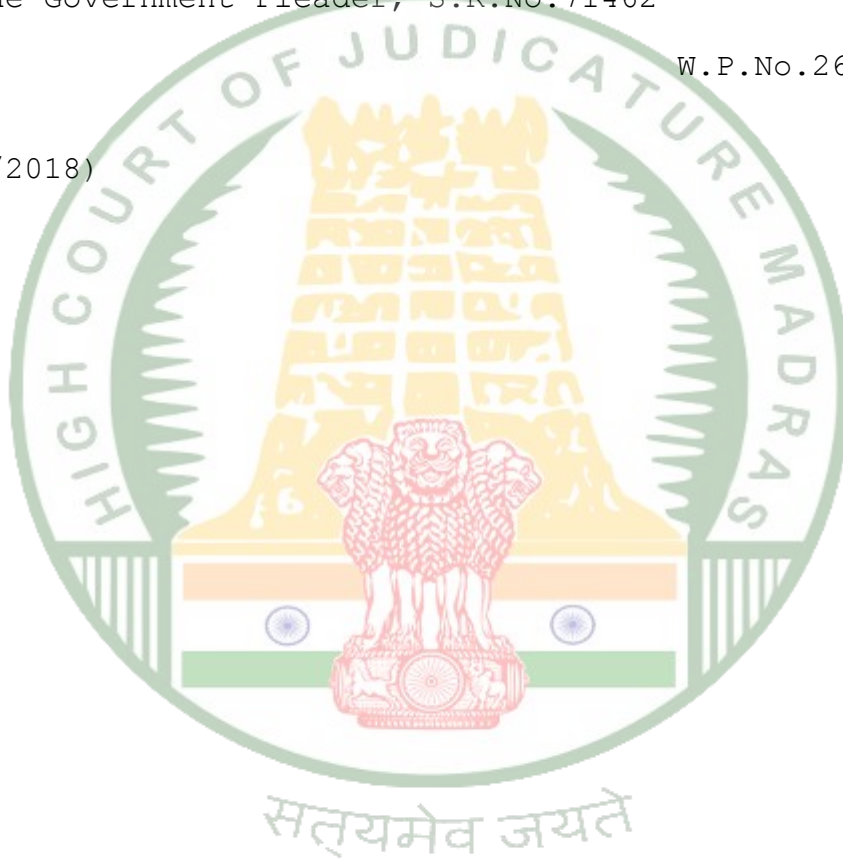
+1cc to Mr.V.Raghupathi, Advocate, S.R.No.71411

+1cc to Mr.P.Srinivas, Advocate, S.R.No.71702

+1cc to the Government Pleader, S.R.No.71462

W.P.No.26172 of 2018

NRI (CO)
GSP (16/11/2018)



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