



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.11189 of 2018

A.Balasubramani

... Petitioner

Vs.

1.The Tiruchirappalli City Municipal Corporation,
represented by its Commissioner,
Bharathidasan Salai,
Contonment,
Tiruchirappalli - 620 001.

2.The Assistant Commissioner (Srirengam Zone),
The Tiruchirappalli City Municipal Corporation,
Srirengam, Tiruchirappalli - 620 006.

3.Pappathi

4.Kaliammal

5.Subbulakshmi

... Respondents

(Respondents 3 to 5 are impleaded vide Court order dated 13.08.2018 in WMP (MD)No.13031 of 2018)

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records culminated in the impugned order in Rc.No.F1/3032/2018, dated 09.04.2018, on the file of the second respondent issued in respect of the property of the petitioner measuring to an extent of 339 square feet or 19.191 square meter comprised in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008 and quash the same as illegal, void, ultra vires, without jurisdiction and not in accordance with law and to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property comprised in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008 either by demolishing the same or in any other manner whatsoever.



For Petitioner : No appearance

For Respondents : Mr.S.Saji Bino
1 and 2

For Respondents : Mr.R.Sundar Srinivasan
3 to 5

ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking Writ of Certiorarified Mandamus to call for the records culminated in the impugned order in Rc.No.F1/3032/2018, dated 09.04.2018, on the file of the second respondent issued in respect of the property of the petitioner measuring to an extent of 339 square feet or 19.191 square meter comprised in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008 and quash the same as illegal, void, ultra vires, without jurisdiction and not in accordance with law and to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioners peaceful possession and enjoyment of the property comprised in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008 either by demolishing the same or in any other manner whatsoever.

2.We have passed a detailed order on 05.09.2018 which is given as under:

"This Writ Petition has been filed seeking Writ of Certiorarified Mandamus to call for the records culminated in the impugned order in Rc.No.F1/3032/2018, dated 09.04.2018, on the file of the second respondent issued in respect of the property of the petitioner measuring to an extent of 339 square feet or 19.191 square meter comprised in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008 and quash the same as illegal, void, ultra vires, without jurisdiction and not in accordance with law and to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioners peaceful possession and enjoyment of the property comprised in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008 either by demolishing the same or in any other manner whatsoever.

2.The grievance of the petitioner is that he is owning only 339 square feet of land in New T.S.No.131, New Block No.3, New Ward N situated at Kalyanasundarapuram, Tiruchirappalli - 620 008,



therefore, as per Rule 6 of the Tamil Nadu Municipalities Building Rules, 1972, he need not move any application seeking approval for construction or erection of a dwelling or a dwelling house. It is also pleaded that as per Rule 11, minimum 1.5 meters space should be left between his wall and the land belonging to others. While he was putting up his construction without taking prior approval from the competent authority, the third respondent has obtained an order of injunction on 26.03.2018 by moving an Interlocutory Application No.119 of 2018 in O.S.No.191 of 2018 on the file of the District Munsif Court, Tiruchirappalli. The petitioner has no objection for allowing the suit filed by the third respondent to be decreed, whereas, the respondents 1 and 2 cannot have any objection as the petitioner is putting up his construction as per the provisions of the Tamil Nadu District Municipalities Building Rules, 1972. On the other hand, it is replied that as per Section 272 of the Coimbatore City Municipal Corporation Act, 1981, an application can be entertained.

3.In view of the above, we direct the Chief Town Planning Officer, Madurai, to assist the Court on the afore-mentioned issue on 10.09.2018.

4.Post the matter on 10.09.2018."

3.Although we have passed the above order, the petitioner has not come before us to prosecute the Writ Petition consecutively for the two hearings viz., on 19.09.2018 and 24.09.2018. Hence, the matter was directed to be posted on 28.09.2018 under the caption "for dismissal". Even today, there is no representation for the petitioner. Therefore, we are unable to keep this Writ Petition Pending and the same is dismissed for non-prosecution. No costs.

Sd/-

Assistant Registrar(Cr1.Side)

/True Copy/

Sub Assistant Registrar(CS-II)

SRM

To

1.The Commissioner,Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Contonment,

<https://hcservices.ecourts.gov.in/hcservices/>
Tiruchirappalli - 620 001.



2.The Assistant Commissioner (Srirengam Zone),
The Tiruchirappalli City Municipal Corporation,
Srirengam, Tiruchirappalli - 620 006.

+1cc to Mr.S.Saji Bino, Advocate in SR No.87673

+1cc to Mr.Shangar Murali, Advocate in SR No.87632

+1cc to Mr.R.Sundar Srinivasan, Advocate in SR No.87618

W.P. (MD) No.11189 of 2018

NM/SKN/SAR II/22.10.18/4P/6C