



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2018

CORAM:

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THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

W.P. (MD) No. 19850 of 2014 and
M.P. (MD) No. 1 of 2014 and
CONT.P. (MD) No. 536 of 2015

W.P. (MD) No. 19850 of 2014:-

Kannan

... Petitioner

Vs.

1. The Commissioner,
Aruppukkottai Municipality,
Aruppukkottai,
Virudhunagar District.

2. The Secretary,
Sri Amuthavalliyamman Sametha
Amuthalingeswarar Devasthanam,
Office at Nadar Sivan Koivil,
Aruppukkottai, Virudhunagar District.

3. Prabhakar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to take action under Sections 192, 197, 199, 205 and more particularly Section 206 of the Tamil Nadu District Municipalities Act, 1920 against the third respondent.

For Petitioner : Mr.R.Murugappan
For R1 : Mr.N.Dilip Kumar
For R2 : Mr.S.Parthasarathy
For R3 : Mr.K.Govindarajan

CONT.P. (MD) No. 536 of 2015:-

Kannan

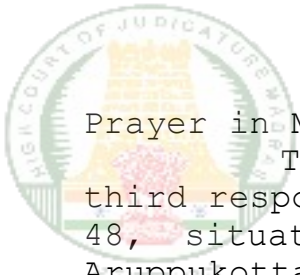
... Petitioner

-Vs-

Prabhakar

... Respondent

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the contemnor/3rd respondent for his willful disobedience of the order passed in M.P. (MD) No. 1 of 2014 in W.P. (MD) No. 19850 of 2014 dated 05.12.2014.



Prayer in MP(MD)No.1/ 2014 in WP(MD)No.19850/2014 :

To pass an order of Interim Injunction, restraining the third respondent from carrying out any reconstruction work at Shop No. 48, situated at Periyakadai Veethi, Near Nadar Mahimai Kadai, Aruppukottai, Virudhunagar District.

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Prayer in WP(MD)No.19850/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to take action under Sections 192, 197, 199, 205 and more particularly Section 206 of the Tamil Nadu District Municipalities Act 1920 against the third respondent.

For Petitioner : Mr.R.Murugappan

For Respondent : Mr.K.Govindarajan

ORDER

This Writ Petition has been filed seeking for a direction to the first respondent to take action against the third respondent for un-authorized renovation of shop.

2. According to the petitioner he is a tenant in the shop belongs to the second respondent temple. The third respondent is also a tenant in the adjacent to the petitioner shop. Now according to the petitioner, the third respondent, without getting necessary permission from the first respondent Municipality, has reconstructed the shop and thereby causing damages to the petitioner shop. In these circumstances, he has made a representation to the first respondent Municipality. Since, no action has been taken by the first respondent Municipality, the present writ petition has been filed.

3. While entertaining the Writ Petition, earlier, notice has been ordered and an order of interim injunction restraining the third respondent from carrying out any reconstruction work at Shop No.48 has also been granted by this Court on 05.12.2014. According to the petitioner in violation of the aforesaid order passed by this Court, the third respondent proceeded with the construction of the building and hence, the contempt petition has been filed.

4. Today, the writ petition and the contempt petition are taken up together for hearing.

5. The learned counsel for the petitioner contented that the third respondent in the Writ Petition without obtaining any permission has renovated the shop and it is totally in violation of Tamil Nadu District Municipalities Act, 1920, whereas the learned counsel for the second respondent submitted that he is the secretary of the temple, who is the owner of the property and the said shop was closed for a long time and he approached the first respondent



Municipality seeking permission for reconstruction of the building but the permission was not granted, in view of the pending of the Writ Petition. Hence, the second respondent is carrying out some repair work in the above said shop and he is not putting any new construction.

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6.Considering the above fact that the petitioner himself is not the owner of the building and the categorical submission made by the second respondent that no new construction is done but some repair work was carried out to lease out the said shop leased out to the third respondent, the prayer sought for by the petitioner, who is only the tenant in the building, is not maintainable. Hence, the Writ Petition is dismissed. However, it is made clear that the second respondent should not put up any construction without getting necessary permission from the first respondent Municipality before constructing new construction. No costs. Consequently, M.P.(MD) No.1 of 2014 is closed.

7.So far as the contempt petition is concerned, injunction was granted only against the third respondent. According to the second respondent, he has only carried out some minor repair works and no new construction was done.

8.In the above circumstances, there is no violation of the order passed by this Court. Hence, the contempt petition is dismissed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Aruppukkottai Municipality,
Aruppukkottai, Virudhunagar District.
2. The Secretary,
Sri Amuthavalliyamman Sametha
Amuthalingeswarar Devasthanam,
Office at Nadar Sivan Koivil,
Aruppukkottai, Virudhunagar District.

- + 1 CC TO Mr.S.PARTHASARATHY, ADVOCATE IN SR No. 46383
- + 1 CC TO Mr.R.MURUGAPPAN, ADVOCATE IN SR No. 46185
- + 1 CC TO Mr.N.DILIP KUMAR, ADVOCATE IN SR No. 46222

TA

TE/KKR/SAR-3 : 13/03/2018 : 3P/6C

W.P.(MD)No.19850 of 2014 and
M.P.(MD)No.1 of 2014 and
CONT.P.(MD)No.536 of 2015
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