



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.08.2017

Pronounced on : 13.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21425 of 2015
and
M.P(MD)Nos.1 & 2 of 2015

A.A1-Ameen

... Petitioner

vs.

1.The District Collector,
O/o. The District Collector,
Nagercoil, Kanyakumari District.

2.The Commissioner,
The Municipal Office,
Kulithurai Municipality,
Kulithurai, Kanyakumari District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, Writ of Certiorari, to call for the records pertaining to the impugned order in Ka.Vi.No.120/2015/Na.A.Aa, dated 20.11.2015 on the file of the respondent No.2 and quash the same as illegal.

For Petitioner : Mr.T.Lajapthi Roy

For Respondents : Mr.M.Govindan,
Special Government Pleader for R1

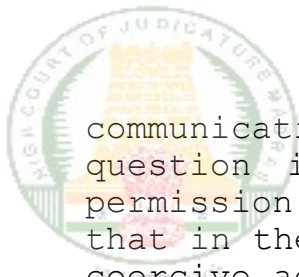
Mr.K.Vamanan for R2

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The petitioner questions the impugned proceedings issued by the Commissioner, Kuzhithurai Municipality.

2.The case of the petitioner is that he put up the construction in question only after getting building permission from the local authority. While so, the second respondent has issued the impugned



communication informing the petitioner that the construction in question is an unauthorised one and that therefore, requisite permission should be obtained from the local planning authority and that in the event of failure on the part of the petitioner to do so, coercive action will be taken.

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3. We have heard the learned counsel on either side and perused the materials available on record.

4. The impugned communication merely calls upon the petitioner to remove the unauthorised constructions.

5. In any event, there is a statutory remedy available to the petitioner under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner without resorting to the specific remedy available under the Act, has rushed to this Court and obtained an interim order.

6. The Hon'ble Supreme Court in *Dipak Kumar Mukherjee Vs. Kolkatta Municipal Corporation* (2013 (5) SCC 336) observed that illegal and unauthorised construction of buildings and other structures not only violate the Municipal Laws and the concept of planned development of the particular area but also affect various fundamental and constitutional rights of other persons.

7. There is nothing on record to see that the building was constructed in adherence to the prescribed standards. In any case, the local authority was correct in taking enforcement action. We are therefore of the view that there is no ground made out in this writ petition. We therefore dismiss the writ petition. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,

O/o. The District Collector, Nagercoil, Kanyakumari District.

2. The Commissioner, The Municipal Office,

Kulithurai Municipality,

Kulithurai, Kanyakumari District.

+1cc to Mr. T. Lajapathi Roy, Advocate, SR.No.54963

+1cc to Mr. K. Vamanan, Advocate, SR.No.55449

+1cc to The Special Government Pleader, SR.No.55724

Arul

RL/6C/2P/SKN/RSK/SAR1/19/4/2018

Order made in

W.P (MD) No.21425 of 2015

and

M.P (MD) Nos.1 & 2 of 2015

13.03.2018