



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.02.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD).No.22442 of 2015andM.P(MD)No.1 of 2015

A/M. Jeya Veer Anjaneyar Swami Thirukovil,
Rep. by its Archakar cum Trustee,
G.Perumal.

... Petitioner

Vs.

1.The Commissioner,
Trichirappalli City Corporation,
Bharadhidasan Salai,
Cantonment,
Trichirappalli.

2.The Assistant Commissioner,
Trichirappalli City Corporation,
K.Abishekapuram Zone,
K.V.R.Road,
Puthur,
Trichirappalli - 620 017.

3.Datchinamoorthy

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to take action against the third respondent under Section 57 of the Tamil Nadu Town and Country Planning Act, 1971 and Section 258 of Coimbatore City Municipal Corporation Act applicable to Tiruchirappalli City Corporation and remove the offensive protrusions and encroachments made by the third respondent into the public lane situate at Town Survey No.53 at Ward No.Y, Block No.21 of K. Abishekapuram Zone of Tiruchirappalli City Corporation and to maintain the said lane free of encroachment.

For Petitioner : Ms.J.Maria Roseline

For RR 1 & 2 : Mr.N.S.Karthikeyan

For R - 3 : No appearance

**ORDER**

[Order of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mrs.J.Maria Roseline, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Standing counsel for the first and the second respondentss.

2.The petitioner seeks for a direction upon the respondents 1 and 2 to take action against the third respondent under Section 57 of the Tamil Nadu Town and Country Planning Act and Section 258 of the Coimbatore City Municipal Corporation Act, which has been made applicable to Trichy City Corporation and to remove the offensive protrusions and the encroachment made by the third respondent in the public lane.

3.During the pendency of the writ petition, it appears that an inspection was conducted and a report has been submitted to this Court. In the inspection report, it is stated that an inspection was conducted in the presence of the petitioner and the third respondent and that the third respondent has made an encroachment and that there is also an allegation that the petitioner has also encroached certain extent of road area. Unfortunately, the respondent Corporation has not verified as to whether the multi storeyed construction put up by the third respondent is an authorized construction and whether the third respondent has obtained any building plan approval and whether the construction is in accordance with the approved plan or not. Therefore, whenever the respondent Corporation makes an inspection these factors have to be taken into consideration, otherwise they will be failing in exercising their statutory duty.

4.The learned counsel appearing for the petitioner objects to the finding rendered by the respondent Corporation in the report that there is an encroachment made by the petitioner.

5.Be that as it may, we are surprised as to why the respondent Corporation has remained silent since 2015, when they have already issued final notice and that the said notice also is not a notice for demolition, but meant for regularization of the encroachment by collecting fine. Thus, we are justified in presuming that the officials of the respondent Corporation are acting hand in glove with the third respondent. Therefore, we deem it proper to issue necessary direction to the first respondent to nominate a Senior Officer to initiate action in the matter so that, it is not give rise to any complaint or favouritism.

6.With the above observation, the writ petition is disposed of by directing the first respondent to nominate a Senior Officer to initiate action with regard to the encroachment of the third respondent, by issuing notice and following due procedure. The respondent Corporation shall also consider as to whether the



construction put up by the third respondent is in accordance with the approved plan building. So far as the encroachment made by the petitioner, a fresh survey to be conducted in the presence of the petitioner and ascertain the facts and take necessary action, after notice to the petitioner. No costs.

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7.The aforesaid direction shall be complied with by the third respondent, within a period of 8 weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner,
Trichirappalli City Corporation,
Bharadhidasan Salai,
Cantonment,
Trichirappalli.

2.The Assistant Commissioner,
Trichirappalli City Corporation,
K.Abishekapuram Zone,
K.V.R.Road,
Puthur,
Trichirappalli - 620 017.

+1CC TO M/S.J.MARIA ROSELINE, ADVOCATE, SR NO.50445

+1CC TO M/S.N.S.KARTHIKEYAN, ADVOCATE, SR NO.50371

W.P. (MD) .No.22442 of 2015

21.02.2018

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MS/SV-MMS/SAR-1/03.04.2018/3P.5C