



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.8741 of 2015

and

M.P(MD)No.1 of 2015

M.T.Akitha through
power of attorney
R.Mohanraj

... Petitioner

vs.

The Municipal Commissioner,
Nagercoil Municipality,
Nagercoil - 629 001.

... Respondent

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, Writ of Certiorari, to call for the records of the respondent in No.B.A.628/2015/F3, dated 18.05.2015, pertaining to the property situated at Door.No.162D, Ward-P, Block No.2, K.P.Road, Nagercoil, comprising R.Sy.No.P2-22-1, P2/22-3 and quash the same.

For Petitioner : Mr.Mubarak for
M/s.Ahmed Associates
For Respondent : Mr.P.Aathimoolapandian

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, Nagercoil 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 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 in the event of failure on the part of the petitioner to do so, coercive action will be taken.

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.

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 petition is also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Municipal Commissioner,
Nagercoil Municipality,
Nagercoil - 629 001.

+1cc to M/s. M/s.Ahmed Associates, Sr.No.54879

ARUL

VB/SKN/RSK/SAR4/19/04/2018/2P/3C

Order made in
W.P(MD)No.8741 of 2015
and
M.P(MD)No.1 of 2015
13.03.2018