

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.23434 of 2016

and

WMP.Nos.20114 to 20116 of 2016

S.Ramesh Kumar

... Petitioner

Versus

1.The Tahsildhar

Chengalpattu Taluk,
Kanceepuram Distirct.

2.Chennai Metropolitan Development Authority,

Rep.by the Member Secretary,
Egmore, Chennai.

3.The President,

Mannivakkam Village Panchayat,
Mannivakkam,
Kancheepuram District.

4.M/s Karpakambal Kalyana Mandapam,

Rep.by its Owner Mr.B.Mani,
Mudichur Road, Mannivakkam Village,
Chengalpattu Taluk,
Kanceepuram Distirct.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent pertaining to the license No.26/2015/A2 dated 01.09.2015 and the quash the same and consequently forebear the fourth respondent from running "Marriage Hall" at S.No.306/8C2, Mannivakkam Village, Chengalpattu Taluk, Kanceepuram District.

For Petitioner : Mr.K.Elangoo

For Respondents : Mrs.P.Rajalakshmi, (for R1)
Additional Government Pleader.
: Mr.N.Sankaravadivel (for R4)
: No Appearance (for R2 to R3)

O R D E R

The petitioner herein S.Ramesh Kumar filed the present wirt petition seeking to quash the impugned order dated 01.09.2015 and consequently, to forbear the fourth respondent from running

a Marriage Hall situated at S.No.306/8C2, Mannivakkam Village, Chengalpattu Taluk, Kanceepuram District.

2.Mr.K.Elangoo, learned counsel appearing for the petitioner, assailing the impugned order, submitted that the petitioner is the owner of the Flat in Door No.1/390 and the fourth respondent's Kalyana Mandapam is situated at S.No.306/8C2, Mannivakkam Village, Chengalpattu Taluk, Kanceepuram District, which is an adjacent Flat to the petitioner's residential premises. He further submitted that after obtaining the planning permission from the second respondent for residential building, the fourth respondent constructed the building. But, suppressing the fact that he got planning permission only for residential purpose, with the connivance of the first respondent, the fourth respondent got the impugned order in question dated 01.09.2015 to run the Kalyana Mandapam in the name and style of "Karpagambal Kalyana Mandapam". Further, the learned counsel contended that the fourth respondent is running the above said Kalyana Mandapam without having proper parking facilities for both the two wheeler and four wheeler vehicles. Moreover, he submitted that there has been no proper drainage facilities for letting out the waste. Therefore, it is the contention of the petitioner is that the official respondents ought not to have granted the permission for running the above said Kalyana Mandapam. The fourth respondent, without getting proper permission, is running the Kalyana Mandapam, which would cause much nuisance and hardship to the petitioner, who is the next neighbour. Hence, the petitioner has come up with the present writ petition.

3.A detailed counter affidavit has been filed on behalf of the first respondent. The learned Additional Government Pleader appearing for the first respondent submitted that the fourth respondent has applied for grant of licence under the Tamil Nadu Public Buildings (Licensing Rule 1965), by producing the Structural Soundness Certificate through Form-B and C obtained from a registered Panel Engineer; the Sanitary Certificate obtained from the Deputy Director of Health Service, Saidapet, Chennai - 600 015 ; and Fire licence from the District Officer, Fire and Rescue Service, Kancheepuram along with remitting Challan for a sum of Rs.5,000/- as licence fee. On receipt of the above said application from the fourth respondent, the Tahsildar inspected the premises and after assessing the safety of the building, he had issued the license in Form-D, bearing No.26/2015/A2 dated 01.09.2015. Therefore, the contention of the petitioner is that the fourth respondent has got the license with the connivance of the first respondent is without any merit.

4.Learned counsel appearing for the fourth respondent has filed a counter affidavit stating that the Kalyana Mandam in question belongs to the fourth respondent and in view of the

regularization scheme introduced by the State Government in G.O.Ms.No.111, Housing and Urban Development [UD4(3)] Department, dated 22.06.2017, wherein time has been extended for regularization of the building like one such Marriage Hall, for which licence is granted, the fourth respondent had applied seeking for regularization, by paying a sum of Rs.4,35,048/- as a total charges and the same has also been processed by the Chennai Metropolitan Development Authority/second respondent and the same was issued by the Chennai Metropolitan Development Authority to the competent authority. Therefore, the prayer of the petitioner is not maintainable.

5.Further, the learned counsel for the fourth respondent submitted that there is a sufficient space provided for Parking of two wheelers in the premisses and that apart, there is a separate space for parking of four wheelers nearby the open ground, which has an extent of 1200 Sq.Ft. Hence, the allegation mentioned in para.6 of the affidavit of the petitioner that the vehicles are being parked in the State Highways Mudichur Road is not correct. In addition to that, on receipt of the application of the fourth respondent, the Village Administrative Officer of Mannivakkam Panchayat, inspected the above said "Kalyanamandapam" on 02.07.2015, followed by an inspection by the Revenue Inspector of Vandalur on 14.07.2015; After receiving report from the authorities concerned, the first respondent issued the impugned licence. Therefore, if sufficient time is given to the second respondent/CMDA to consider the pending application of the petitioner, no prejudice would cause to the petitioner.

6. Since the fourth respondent has also filed an application, pursuant to the Government Order in G.O.Ms.No.111 Housing and Urban Development [UD4(3)] Department, dated 22.06.2017, seeking for regularization of the building, this Court taking note of the fact, the matter has already been seized of by the second respondent/CMDA, directs the CMDA to consider the application sent by the fourth respondent on 06.12.2018 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of copy of this order.

7.With the above direction, the Writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

klr/rkm

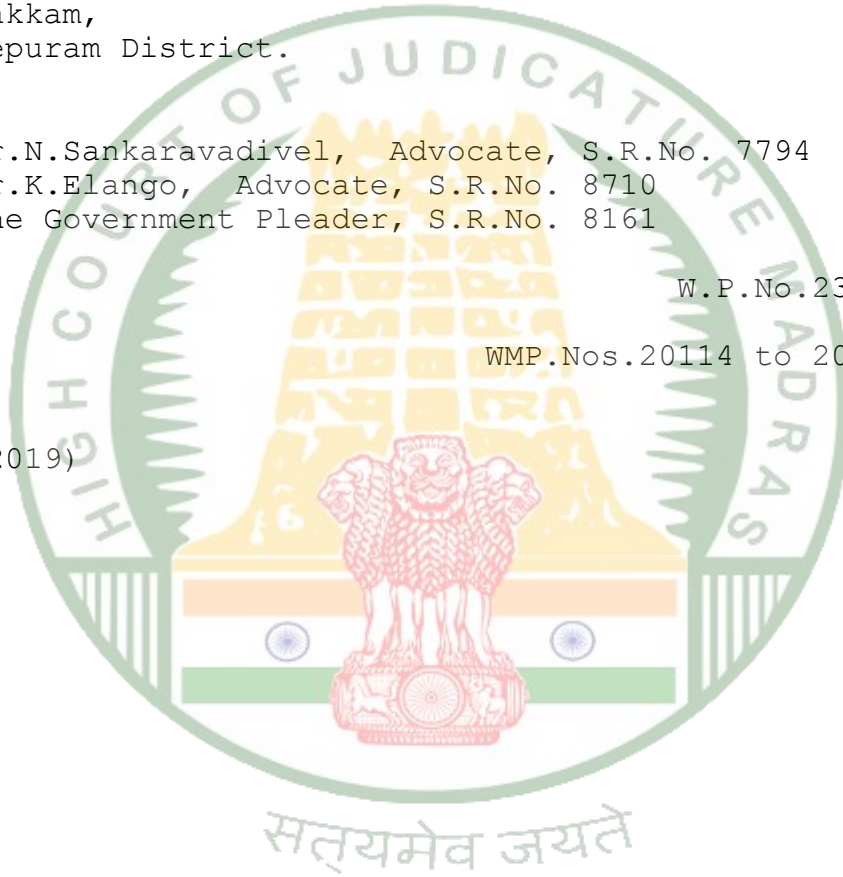
To,

- 1.The Tahsildhar
Chengalpattu Taluk,
Kancheepuram District.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai.
- 3.The President,
Mannivakkam Village Panchayat,
Mannivakkam,
Kancheepuram District.

+2cc to Mr.N.Sankaravadivel, Advocate, S.R.No. 7794
+1cc to Mr.K.Elango, Advocate, S.R.No. 8710
+1cc to the Government Pleader, S.R.No. 8161

W.P.No.23434 of 2016
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RSI (CO)
GN(27/02/2019)



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