

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2019

CORAM

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.21734 of 2018

Chromepet G.S.T.Salai Puduvaingar
Siruthozhil Vyaparigal Munnetra Sangam
No.5, Second Street, Puduvaingar
Chrompet, Chennai - 600 044
Rep by its Secretary,
G.Bakthavathsalam ... Petitioner

Vs.

- 1 The Secretary to Government
Municipal Administration and
Water Supply Department
Secretariat, Chennai - 600 009.
- 2 The Secretary to Government
Health and Family Welfare Department
Secretariat, Chennai - 600 009.
- 3 The Member Secretary
Chennai Metropolitan Development Authority
Chennai - 600 008.
- 4 The District Collector
Kancheepuram District
Kancheepuram.
- 5 The Municipal Commissioner
Pallavaram Municipality
Pallavaram, Chennai - 600 044.
- 6 The Divisional Fire Officer
South Chennai
Ashok Nagar
Chennai - 600 083.
- 7 The Deputy Commissioner of Police (Traffic)
St. Thomas Mount
Chennai - 600 016.

8 Salem R.R.Briyani Unavagam
No.1, East Pudurvai Nagar Second Street
Old S. No. 413/4 T.S.No.9 (part)
Ward E, 42 Block
Chrompet, Chennai - 600 044.

9 M.S.Anbu

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 3rd respondent to cause investigation into the violation of building permit in the construction of the building by the 9th respondent at No.1, Pudurvai Nagar East II Street, Block "E", Ward No. 42, Old Survey No. 413/4 (part) in Town Survey No.9, within Pallavapuram Municipality and consequently direct the 5th respondent to remove the encroachment of Municipal Street and preparing food in a an unhygienic manner and for not providing parking space for the vehicles of customers and until then to seal the restaurant by the 8th respondent.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Mr.V.Jayaprakash Narayanan
Government Pleader (i/c.)
for respondents 1,2,4,6,7

Mr.Karthik Rajan
for 3rd respondent

Mr.P.Srinivas
for 5th respondent

Mr.B.Kannan
for 8th respondent

Mrs.Subhalaxmi Samanta
for 9th respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Heard Mr.J.Muthukumaran, learned counsel for the petitioner; Mr.V.Jayaprakash Narayanan, learned Government Pleader (i/c.) for respondents 1, 2, 4, 6 and 7; Mr.Karthik Rajan, learned counsel for the third respondent; Mr.P.Srinivas, learned counsel for the fifth respondent; Mr.B.Kannan, learned counsel for the eighth respondent and Mrs.Subhalaxmi Samanta, learned counsel for the ninth respondent.

2. The prayer of the petitioner is that directions be issued to the third respondent, i.e., Chennai Metropolitan Development Authority, to investigate the violation of the building permit in the building constructed by the ninth respondent at No.1, Pudukkottai Nagar East II Street, Block "E", Ward No. 42, Old Survey No. 413/4 (part) in Town Survey No.9, within Pallavapuram Municipality, and consequently direct the fifth respondent, i.e., the Commissioner, Pallavapuram Municipality, to remove the said encroachment.

3. The learned counsel for the fifth respondent has tendered the counter affidavit in which it is stated that though building permission was granted to the ninth respondent, there are certain deviations while putting up the construction. In view of the deviations, notice under Section 205(1) and (2) of the Tamil Nadu District Municipalities Act was issued to the ninth respondent on 22.11.2018 and it was duly served on the ninth respondent, who is the owner of the building. However, the ninth respondent did not submit any reply to the said show cause notice. In view of the fact that there was no reply or explanation tendered by the ninth respondent, final order under Section 205(3) of the Act was issued on 10.12.2018 and sent on 11.12.2018 by registered post with acknowledgment due (RPAD), since the ninth respondent refused to accept the same in person. It is also stated that further steps in relation to the deviations while putting up the construction will be taken on the expiry of the time granted in the said proceedings.

4. The petitioner is also seeking that directions be issued to the fifth respondent to remove encroachment on the municipal street by the eighth respondent. According to the petitioner, the eighth respondent is preparing food on the municipal street in an unhygienic manner.

5. As far as the eighth respondent is concerned, the fifth respondent in the counter affidavit has stated that the eighth respondent hotel is having the trade licence for running the hotel from 2017-18 and 2018-19. The learned counsel for the fifth respondent states that if any cooking activity takes place on the municipal street at the instance of the eighth respondent or any other person, they will take action in accordance with law.

6. In view of the averments in the affidavit and the submission made by the learned counsel for the fifth respondent, no further orders are required to be passed in this writ petition in relation to respondents 8 and 9.

7. We may also state at this stage that in the counter affidavit filed by the fifth respondent, it is mentioned that the petitioner himself is running an unauthorized car wash centre in the address mentioned in the writ petition. There is no building permission for the same, nor there is a trade licence for running the service centre. The washed water is being let into the open storm water drains and, therefore, the petitioner is also liable to be proceeded against and separate action is being taken against the petitioner in this regard.

8. In view of the above averment in the counter affidavit, we direct the fifth respondent to take action against the petitioner as expeditiously as possible.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.25498 and 25499 of 2018 are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

sasi

To:

- 1 The Secretary to Government
Municipal Administration and
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Secretariat, Chennai - 600 009.
- 2 The Secretary to Government
Health and Family Welfare Department
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6 The Divisional Fire Officer
South Chennai
Ashok Nagar
Chennai - 600 083.

7 The Deputy Commissioner of Police (Traffic)
St. Thomas Mount
Chennai - 600 016.

+1cc to Mr.P.Srinivas, Advocate SR.No.16491

+1cc to M/s.Samanta, Advocate SR.No.16168

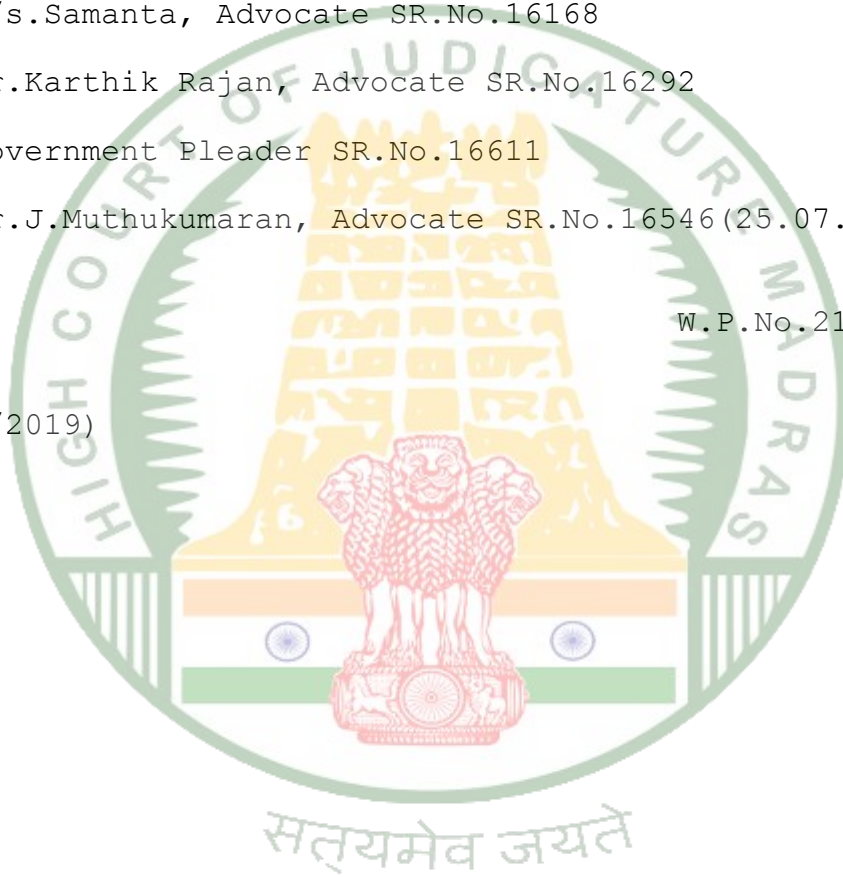
+1cc to Mr.Karthik Rajan, Advocate SR.No.16292

+1cc to Government Pleader SR.No.16611

+1cc to Mr.J.Muthukumaran, Advocate SR.No.16546 (25.07.2019)

W.P.No.21734 of 2018

KS (CO)
GMY (13/03/2019)



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