

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:02.01.2019

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND

THE HONOURABLE Mr. JUSTICE R.PONGIAPPAN

W.P.No.33646 of 2017 and
W.M.P.Nos.37230 & 37231 of 2017

N.Anuradha

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai - 600 009.
- 2.The Member Secretary/Commissioner,
Udhagamandalam Municipality,
Udhagamandalam Local Planning Authority,
At Udhagamandalam, The Nilgiris.
- 3.The Tahsildar,
Udhagamandalam,
The Nilgiris.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the impugned order dated 15.12.2017 in Ka.v.No.59/2012/F1 issued by the 2nd respondent quash the same.

For Petitioner : Mr.V.Manoharan

For Respondents 1 & 3 : Mr.J.Pothiraj
Special Government Pleader

For 2nd Respondent : Mr.S.Kadarkarai

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioner, Mr.J.Pothiraj, Learned Special Government Pleader for Respondents 1 and 3 and Mr.S.Kadarkarai, Learned Counsel for the 2nd Respondent/Municipality. No counter is filed on behalf of the Respondents 1 to 3.

2. In the instant case, the Petitioner is assailing the Correctness, Legality and Validity of the Lock and Seal Order dated 15.12.2017 passed by the 2nd Respondent/Commissioner, Udhagamandalam Municipality.

3. The grievance of the Petitioner is that the impugned order dated 15.12.2017 of the 2nd Respondent/Municipality is against the 'Principles of Natural Justice', since the Petitioner was not provided with an opportunity and further that, the 2nd Respondent in an arbitrary manner had locked the Petitioner's property.

4. In this connection, this Court pertinently points out that the Tenant of the present Writ Petitioner had filed W.P.No.34095 of 2017 before this Court wherein he had sought for passing of an order by this Court in calling for the records relating to the impugned order passed by the 2nd Respondent in Ka.Vi.No.59/2012/ F1 dated 15.12.2017 and quash the same as illegal and consequently directing the 1st and 2nd Respondents to dispose of the appeal preferred by his Landlady viz., the present Writ Petitioner.

5. This Court, on 28.12.2017 in W.P.No.34095 of 2017 and W.M.P.No.37849 of 2017, at the instance of the present Petitioner's Tenant viz., K.Suresh Kumar, had passed the following order:

"It is submitted by the learned counsel for petitioner that without prior notice, the impugned order came to be passed which is opposed to the provisions of the Town and Country Planning Act.

Mr.T.N.Rajagopalan, learned Spl. Govt. Pleader takes notice for Respondents 1 and 2. Notice through Court as well as privately to 3rd respondent returnable by 8.1.2018.

Post the matter on 08.1.2018. In the meantime, there shall be an interim direction, directing the 2nd respondent to remove the lock and seal of the Petitioner's Shop, namely, Wax Planet, situated at D.No.82/M, Wood Side Road, Udhagamandalam, Nilgiris District."

6. At this stage, the Learned Standing Counsel for the 2nd Respondent/Municipality brings it to the notice of this Court that on 02.01.2018, the Lock and Seal was removed. That apart, the Writ Petition No.34095 of 2017 filed by the Tenant of the present Writ Petitioner viz., Suresh Kumar, was dismissed by this Court on 19.12.2018.

7. When the fact of the matter is that Lock and Seal was removed on 02.01.2018, as per order dated 28.12.2017 in W.P.No. 34095 of 2017 and W.M.P.No.37849 of 2017 [filed by the Tenant of the present Writ Petitioner], this Court is of the considered view that the present Writ Petition filed by the Petitioner is an otiose one. Viewed in that perspective, the present Writ Petition fails.

8. In fine, the Writ Petition filed by the Landlady is dismissed without costs. Before parting with the case, this Court makes it lucidly clear that the dismissal of the present Writ Petition will not preclude the Petitioner to pursue her remedy in Appeal pending before the 1st Respondent, of course, in the manner of known to Law and in accordance with Law. It is open to the present Petitioner to raise all factual and legal pleas before the 1st Respondent in regard to her purported pending Appeal before the 1st Respondent, by keeping in mind of the relevant provisions of the Act, Building Rules and Regulations as the case may be. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

Sgl
To

1. The Principal Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai - 600 009.
2. The Member Secretary/Commissioner,
Udhagamandalam Municipality,
Udhagamandalam Local Planning Authority,
At Udhagamandalam, The Nilgiris.
3. The Tahsildar,
Udhagamandalam,
The Nilgiris.

+1 CC to Mr.S.Kadarkarai, Advocate sr 265.
+1 CC to Mr.M.C. Govindan, Advocate sr 448
+1 CC to Govt. Pleader sr 521

W.P.No.33646 of 2017

VSNI (CO)
SP(29/01/2019)