



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2019

CORAM:

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

W.P.(MD) No.18506 of 2019
and W.M.P.(MD) Nos.14908 and 14909 of 2019
and

Cont.P.(MD) No.405 of 2019 in W.P.(MD) No.4543 of 2018

W.P. (MD) No.18506 of 2019:

K.Muthusamy

... Petitioner

-vs-

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Assistant Director [Panchayat],
Madurai,
Madurai District.
- 3.The Tahsildar,
Madurai East Taluk,
Madurai District.
- 4.The Special Officer,
The Block Development Officer [Village Panchayat],
Madurai East Panchayat Union,
Madurai District.

5.Petchiammal
6.A.Bootharaj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the entire records, relating to the impugned proceedings of the 4th respondent in Na.Ka.No.833/2019/Thi 3(2) dated 21.08.2019 and to quash the same as illegal.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents 1 to 4 : Mr.S.Angappan
Government Advocate



For 5th Respondent

: No appearance

For 6th Respondent

: Mr.D.Selvanayagam

Cont.P.(MD) No.405 of 2019:

Bootharaj

... Petitioner

-vs-

Mr.Balachandar,
The Executive Officer,
Y. Othakadai Panchayat,
East Panchayat Union,
Madurai District.

... Respondents

PRAYER: Petition filed under Section 11 of Contempt of Court Act, praying to punish the respondents for contempt committing wanton and willful disobedience of the order passed by the Madurai Bench of Madras High Court in W.P.(MD) No.4543 of 2018 order dated 05.03.2018.

Prayer in WP(MD). 4543/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 3rd respondent to take necessary in Survey No.138/11C2 in Kodikulam 1st Bit Village, bearing Plot No.1, to an extent of 1459 square feet as per the Rule 34(1) of the Tamil Nadu Panchayat Building Rules , 1970.

For Petitioner

: Mr.D.Selvanayagam

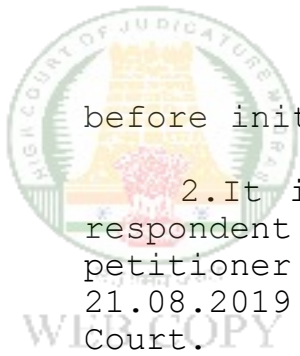
For Respondent

: Mr.S.Angappan
Government Advocate

COMMON ORDER

[Common Order of the Court was made by T.S.SIVAGNANAM, J.]

The Writ Petition has been filed challenging the notice dated 21.08.2019 issued to be petitioner, which is a demolition notice, as the petitioner has constructed a house without obtaining planning permission. A proceeding has been initiated at the behest of the 6th respondent, who claims to be the owner of the land in which the house stands constructed. The 6th respondent has filed W.P.(MD) No.4543 of 2018, which was disposed of by directing the third respondent to examine as to whether any illegal construction has been put up and whether planning approval has been obtained or not and directed that notice should be issued to the petitioner herein



before initiating any action.

2.It is submitted by the learned counsel appearing for the 6th respondent that four earlier notices were issued to the writ petitioner herein i.e., on 22.03.2019, 27.06.2019, 14.06.2019 and 21.08.2019 and the last notice was put to challenge before this Court.

3.The learned counsel appearing for the writ petitioner would submit that the petitioner's vendor has right over the property and a civil litigation ended in favour of the petitioner.

4.However, what is to be adjudicated in this writ petition is whether the building plan has been approved. It is admitted fact that the petitioner has not obtained building plan approval and an application has been filed for planning permission on 19.09.2019 and a notice has been issued by the fourth respondent to the petitioner on 20.09.2019, calling him to submit a copy of the plot regularization certificate.

5.Considering all these facts and also the earlier direction issued by this Court in W.P.(MD) No.4543 of 2018 and the petitioner was not evicted by the authorities, for which Cont.P.(MD) No.405 of 2019 has been filed, we would be justified in passing the following order:

(i)Challenge to the impugned notice dated 21.08.2019 is rejected and consequently, W.P.(MD) No.18509 of 2019 is dismissed. Consequently, connected Writ Miscellaneous Petitions are also dismissed. No costs.

(ii) The Writ Petitioner is directed to vacate the building in question and keep the premises under lock and key till a decision is arrived at in the application filed for grant of planning permission.

(iii) The Writ Petitioner is granted 30 days time from the date of receipt of a copy of this order to vacate the premises and lock the same and keep it locked.

(iv) If the Writ Petitioner fails to vacate the premises within the said time, the fourth respondent shall evict him from the premises and keep the premises under lock and key.

(v) The fourth respondent shall consider the application filed by the petitioner for grant of planning permission on merits and in accordance with law. Notice should be issued to the 6th respondent and after hearing the 6th respondent alone a decision has to be taken.



(vi) In the light of the order passed in W.P.(MD) No.18506 of 2019, Cont.P.(MD) No.405 of 2019 stands closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

sj

To

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Assistant Director [Panchayat],
Madurai,
Madurai District.
- 3.The Tahsildar,
Madurai East Taluk,
Madurai District.
- 4.The Special Officer,
The Block Development Officer [Village Panchayat],
Madurai East Panchayat Union,
Madurai District.

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-90171[F] dated 27/09/2019

+1 CC to M/s.S. JEYAKARTHIK, Advocate (SR-90477[F] dated 30/09/2019

+1 CC to M/s.SPL GP (SR-90569[F] dated 30/09/2019)

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and W.M.P.(MD) Nos.14908 and 14909 of 2019
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JMN(21.10.2019) 4P : 8C