

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.17582 of 2020
and W.M.P.Nos.21792 & 21802 of 2020

1.Mr.A.r.Iqbal Sait

2.Mr.Omer Farroq Sait

..Petitioners

Versus

1. The Government of Tamil Nadu
represented by its Principal Secretary,
Municipal Administration and Water
Supply Department, Secretariat,
Chennai 600 001.

2. The Member Secretary/Commissioner,
Udhagamandalam Municipality at
Udhagamandalam, The Nilgris.

..Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus Calling for the records relating to the proceedings of the Member Secretary/ Commissioner, Udhagamandalam at Nilgiris made in Notice/ order dated 7.2.2019 affixed at the Outer door of the residential Premises of the petitoners comprised in R. S. No.3909/Part at Door No 165/A/1 /Club Road/ Commissioner Road, Udhagamandalam at Nilgiris and the notice in NA.KA.NO 5882/2018/F2 dated 25.03.2019 issued by the second respondent herein and quash the same and consequently issue appropraite directions directing the

Respondents herein and their subordinates to desal and un-lock the residential Premises of the petitioners comprised in R.S. No 3909/part at Door No.165/A/1 and 176/1 and 359/D Club Road/ Commissioner Road, Udhagamandalam, The Nilgris.

For Petitioner : Mr.D.Krishna Pradeep
For Respondents: Mr.R.Vijayakumar
Additional Government Pleader
for R1 & R2

ORDER

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

The first petitioner is the owner of the property comprised in R.S.No.3909, Club Road-Commissioner Road, Udhagamandalam, the Nilgris, admeasuring an extent of 0.06 acres through the registered Sale Deed dated 30.08.1991, registered on the file of the Joint Sub-Registrar No.I, Udhagamandalam and he also purchased another extent of land in the property comprised in R.S.No.3909, admeasuring an extent of 17.05 cents through represented Power of Attorney, through the registered Sale Deed dated 14.10.1991, registered on the file of the Joint Sub Registrar No.I, Udhagamandalam. The petitioner made a oral gift which was later reduced into writing by way of an affidavit, in and by which, he gifted an extent of 0.06-13/16 in favour of his son, who is the second petitioner and after obtaining planning permission, they also put up a residential house, consisting of ground and first floor, which is also subjected to statutory levies. It appears that the petitioner has converted the house in the form of commercial exploitation to run a residential cottage for the benefit of Tourist and the 2nd respondent Municipality, having aware of the same, had issued notice of Lock and Seal and the petitioner has also made a challenge to the same, by filing a Statutory Appeal / revision, before the 1st respondent on 08.04.2019.

2. The learned counsel appearing for the petitioners would submit that despite lapse of nearly 1½ year and odd, not even the petition for Stay filed along the said Statutory Appeal, have been taken by the 1st respondent and taking advantage of the same, the 2nd respondent is wielding out threat and therefore prays for appropriate orders.

3. This Court heard the submission of Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent, who would submit that the said Statutory Appeal /

revision is still pending.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners, either in their Statutory Appeal / revision or in this Writ Petition, directs the 1st respondent to take up the petition for Stay filed under Section 80-A(3) of the Town and Country Planning Act, at the first instance and give a disposal in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and till such time, the 2nd respondent shall defer further decision in terms of the impugned notices dated 07.02.2019 and 25.03.2019 and it is also open to the 1st respondent to dispose of the main Statutory Revision / appeal itself, at an early date. It is made clear that the petitioners, till the disposal of the statutory revision / appeal by the 1st respondent, shall not alter the physical features of the superstructure and shall not create any third party rights in respect of the superstructure.

6. The Writ Petition stands disposed of, subject to above observation. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
The Government of Tamil Nadu
Municipal Administration and Water
Supply Department, Secretariat,
Chennai 600 001.

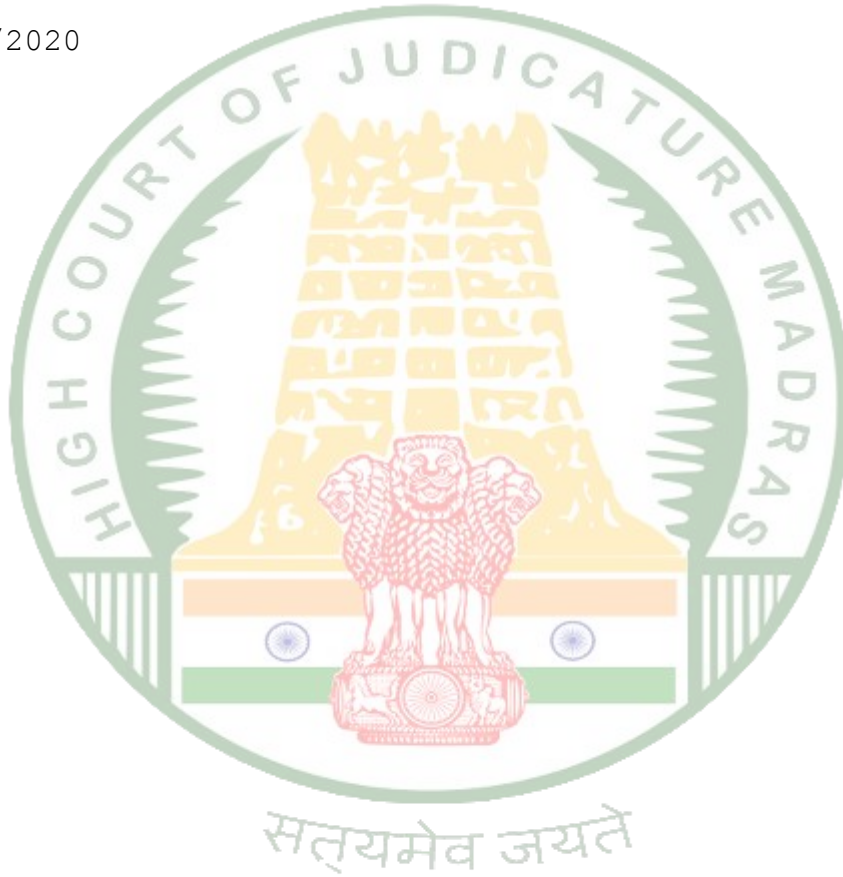
2. The Member Secretary/Commissioner,
Udhagamandalam Municipality at
Udhagamandalam, The Nilgris.

+1cc to N.Damodaran, Advocate, SR40492

+1cc to The Government Pleader, SR40378

W.P.No.17582 of 2020

CO (KV)
BDL/31/12/2020



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