



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

AND

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

WEB COPY

W.P.(MD)No.5672 of 2020

and

W.M.P.(MD)No.4949 of 2020

K.Shanmuga Sundaram

: Petitioner

Vs.

1.The Commissioner,
Aruppukottai Municipality,
Aruppukottai,
Virudhunagar District.

2.Ramarathinam

3.R.Rajakayambu

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, to direct the first respondent to remove the unauthorized construction made by the respondents 2 and 3, namely, in respect of buildings No.160/261, 160/262 part at Aruppukottai Town, Virudhunagar District within the time frame stipulated by this Court.

For Petitioner : Mr.K.Shanmuga Sundaram

For R1 : Mr.N.Dilip Kumar

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed to direct the first respondent to remove the unauthorized construction made by the respondents 2 and 3 in respect of buildings in S.Nos.160/261, 160/262 part at Aruppukottai Town, Virudhunagar District within the time frame stipulated by this Court.

2.The petitioner states that his son has purchased the property in S.Nos.160/261, 160/262 part at Aruppukottai Town, Virudhunagar District. It is further stated that the petitioner's son went abroad for employment and the petitioner is maintaining the aforesaid land. It is stated that the adjacent land owners, namely, respondents 2 and 3 encroached the pathway for the said land by constructing a building without getting any permission and proper plan approval from the first respondent. In this regard, the



petitioner has filed a civil suit in O.S.No.157 of 2018 for permanent injunction against respondents 2 and 3.

3.In the present case, the dispute appears to be purely a dispute regarding title and enjoyment of the property, in which, the respondents 2 and 3 have put up residential building. The learned Counsel for the first respondent, on instructions, submitted that the second respondent has put up a residential house using the Pradhan Mantri Awas Yojana funds allotted to him under the said scheme. Though it is alleged that the respondents 2 and 3 have not obtained proper building permission from the first respondent, this Court is of the view that the construction was made by using the Central Government fund apart from the hard earned money of private respondents to put up a small residential house. In the said circumstances, this Court is not inclined to entertain this Writ Petition.

4.Having regard to the nature of construction and the petitioner's grievance, the petitioner is given liberty to prosecute the suit in O.S.No.157 of 2018. It is also open to the petitioner to implead the first respondent herein as a party to the said suit to find out whether the construction is authorised or not. It is also open to the petitioner to amend the prayer in the said suit properly, so as to enable to decide all the issues that has been raised by the petitioner in the present Writ Petition. Reserving such liberty to the petitioner, this Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-12340[F] dated 18/03/2020)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12421[F] dated 19/03/2020)

W.P. (MD)No.5672 of 2020
18.03.2020

cmr

SDS (02.06.2020) 2P-3C