



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD)No.8306 of 2020

and

W.M.P(MD)No.7703 of 2020

K.Dhanabalan

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Pudukkottai District.

2.The Commissioner,
Pudukkottai Municipality,
Pudukkottai District.

3.A.Mohammed Abdullah

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the official respondents 1 and 2 to remove the unauthorized commercial construction made in Town Survey Number: 1881, Thilagar Thidal, Pudukkottai District and also to take necessary actions against the third respondent for his illegal acts of encroaching and obstructing 10 feet public pathway by halting his lorries in the said area and consequently, forbear the third respondent from doing any further commercial work in the said survey number.

For Petitioner : Mr.A.K.Hemaraj

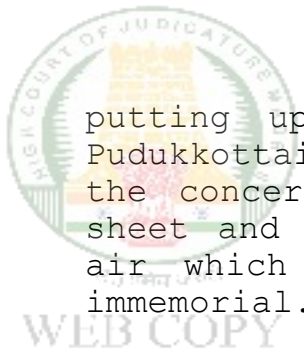
For Respondents : Mr.R.Murugan
Additional Government Pleader for R.1

Mr.P.Mahendran for R.2

ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

This writ petition styled as a Public Interest Litigation is filed by a resident of T.S.No.1879, Thilagar Thidal, Pudukkottai District and he would aver that the private respondent started



putting up a new construction in T.S.No.1881, Thilagar Thidal, Pudukkottai District, without any authorisation or permission from the concerned authorities and in that process, has put up a tin sheet and thereby, preventing the easementary rights of light and air which have been enjoyed by the nearby residents from time immemorial.

2. Learned Counsel for the petitioner would submit that the petitioner has also sought information under the Right to Information Act as to the construction put up by the third respondent and vide response, dated 23.03.2020, in Na.Ka.No.1493/F2/2020, the office of the second respondent has furnished the information that the area in question is "Mixed Residential Zone" and in respect of putting up a construction in T.S.No.1881, Thilagar Thidal, Pudukkottai District, the private respondent did not obtain any prior permission. Therefore, the learned Counsel for the petitioner would contend that in the light of the unimpeachable materials placed before this Court, this Court may pass appropriate orders restraining the third respondent from putting up the construction and also directing the second respondent to remove the offending structure.

3. Mr.P.Mahendran, learned Standing Counsel accepts notice on behalf of the second respondent and on instructions, would submit that after receipt of the representation of the petitioner, inspection was caused and since violations were noted, notice under Sections 216 (1) and (2) of the Tamil Nadu District Municipalities Act, 1920, in the form of show cause notice was issued and in response to the same, the third respondent also appeared and gave an undertaking not to proceed further with the construction. He would further add that suitable response would be given to the petitioner in this regard.

4. The learned Counsel for the petitioner, in response to the said submission, would submit that the intention of the third respondent is to put up a huge godown for the purpose of storing the cement and other construction materials and in that event, there is a likelihood of noise and air pollution and the second respondent may also take into consideration the same.

5. This Court has carefully considered the rival submissions and also perused the materials placed on record.

6. This Court, taking into consideration the above facts and circumstances of the case and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the second respondent to send their reply to the representation, dated 12.02.2020, submitted by the petitioner as expeditiously as possible and not later than four weeks from the date of receipt of a copy of this order and also mark



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7. In the result, this writ petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Collectorate,
Pudukottai District.
- 2.The Commissioner,
Pudukottai Municipality,
Pudukottai District.

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SPU (12.08.2020) 3P 3C