



WEB COPY

W.P.(MD)No.12755 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.12755 of 2020

and

W.M.P (MD)No.10832 of 2020

Dr.S.A.Joy Raja

... Petitioner

Vs.

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Commissioner,
Nagercoil Municipal Corporation,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order made in Na.Ka.No.1823/2019/F1, dated 21.09.2020 passed by the second respondent and quash the same.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel for
Mr.D.Sadiq Raja

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader for R.1

Mr.P.Athimoolapandian for R.2

ORDER

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

The second respondent/Municipal Corporation, in compliance of the order, dated 05.11.2019 passed in W.P(MD)No.16954 of 2019, has issued Form-I Notice in Na.Ka.No.1823/2019/F1. The petitioner, challenging the legality of the said notice issued under Section 85 read with Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, filed W.P(MD)No.6232 of 2020 and pending disposal of the same, filed W.M.P(MD)No.5443 of 2020 praying to stay all further proceedings. A Division Bench of this Court has entertained that writ petition and vide interim order dated 20.05.2020, has granted interim order of status quo and it is relevant to extract hereunder the same:

<https://hcservices.ecourts.gov.in/hcservices/>



"... The impugned order is a direction to restore the building to its original position by removing the unauthorised construction. Hence, to protect and preserve the rights of the parties during the pendency of the proceedings, it is appropriate for this Court to direct the parties to maintain status quo. Hence, there shall be an order of status quo and both the petitioner and the respondents shall maintain status quo till the writ petition is disposed of.

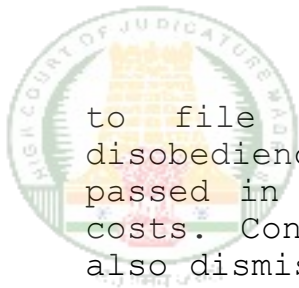
2. Since there is a specific allegation against the petitioner that the petitioner had put up additional construction and alterations in the building quiet contrary to the interim order granted by this Court earlier in the Writ Petition in W.P. (MD)No.6954 of 2019 and the final order in the said Writ Petition, the petitioner is specifically directed not to indulge in any kind of alterations to the structure."

2. Mr.Isaac Mohanlal, learned Senior Counsel assisted by Mr.D.Sadiq Raja, learned Counsel appearing for the petitioner, has drawn the attention of this Court to the G.O.Ms.No.262, Revenue and Disaster Management (DM-II) Department, dated 31.05.2020 and G.O.Ms.No.263, Revenue and Disaster Management (DM-II) Department, dated 31.05.2020 and would submit that in the light of the lifting of lock down, the shops situated inside the said Complex have been opened except the cinema theatres and by deliberate misinterpretation of the above cited order of status quo, the second respondent passed the impugned order, dated 21.09.2020, informing that the said Shopping Complex be put under lock and seal from 29.09.2020 onwards.

3. Mr.K.P.Krishnadoss, learned Special Government Pleader accepts notice on behalf of the first respondent and Mr.P.Athimoolapandian, learned Standing Counsel accepts notice on behalf of the second respondent.

4. This Court, after hearing the submissions of the learned Senior Counsel appearing for the petitioner, is of the considered view that if at all, the case of the petitioner that the impugned order dated 21.09.2020 issued by the second respondent, is in violation of the status quo order passed in W.P(MD)No.6232 of 2020 and W.M.P(MD)No.5443 of 2020, dated 20.05.2020, the remedy open to the petitioner is to file a petition for contempt and a separate writ petition is not maintainable.

5. In the result, this writ petition is **dismissed** as not maintainable and if the petitioner is so advised, he is at liberty



to file a petition for contempt as to the alleged wilful disobedience and non-compliance of the order, dated 20.05.2020, passed in W.P(MD)No.6232 of 2020 and W.M.P(MD)No.5443 of 2020. No costs. Consequently, the connected writ miscellaneous petition is also dismissed.

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: (i) 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

The District Collector,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.GP (SR-18406[F] dated 29/09/2020)

W.P. (MD)No.12755 of 2020

and

W.M.P (MD)No.10832 of 2020

28.09.2020

SCR (CO)

AP(30/09/2020) 3P 3C