

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.12124 of 2020

Dr.Ashok Nathaniel

.. Petitioner

Versus

1.The Commissioner,
Vellore Corporation,
Vellore-1.

2.Mr.V.R.Vijayakumar

3.The President,
Teacher's Home,
Filter-bed Road,
Thukkaram Bajanai Koil Street,
Vellore 632 001.

4.The Secretary,
Teacher's Home,
Filter-bed Road,
Thukkaram Bajanai Koil Street,
Vellore 632 001.

5.The Town Planning Officer,
Vellore Corporation,
Vellore-1.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 02.01.2020 and 04.02.2020 and to proceed with the demolition of unauthorised construction made by the respondents 2 to 4 pursuant to the notice dated 04.11.2016 issued under Section 296(1) & (2) of Vellore Coimbatore Corporation Act 1981.

For Petitioner : Mr.A.Ilangovan
For RR 2 : Mr.G.M.Shankar
For RR3 & 4 : Mr.S.William

ORDER

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

The petitioner claims to be the owner of the land and building bearing Old Door No.34, New Door No.59, Thukkaram Bajanai Koil Street, Filterbed road, Vellore, by way of testamentary instrument.

2. The learned counsel appearing for the petitioner would submit that the 2nd respondent is the leaseholder of the adjacent land and building bearing Old Door no.35 and he leased out the same in favour of the respondents 3 and 4.

3. The primordial grievance expressed by the learned counsel appearing for the petitioner is that the 2nd respondent has constructed the commercial complex on the western vacant side, which lies very close proximity to the petitioner's property, without obtaining any Planning Permission or whatsoever and in this regard, a complaint / representation was also submitted to the 1st respondent on 11.01.2008, followed by yet another complaint dated 23.01.2008, on the file of the Director of Municipal Administration. It is also followed by a remainder representations dated 26.06.2008 and 28.06.2008 respectively. The petitioner has also filed O.S.No.48/2008 on the file of the Court of Additional District Munsif, Vellore, praying for permanent injunction, restraining the 2nd respondent from putting up any further construction unauthorisedly and also having the benefit of interim orders, vide order dated 13.06.2018 in I.A.No.1283 of 2008 in O.S.No.48 of 2018. Despite the subsistence of the interim order, the 2nd respondent has proceeded further and completed the unauthorised construction and though the Suit came to be dismissed on 04.11.2019, the fact remains that the 2nd respondent did violate the interim order.

4. It is also pointed out by the learned counsel appearing for the petitioner that the 1st respondent Corporation has issued a notice dated 04.11.2019 under Section 296 (1) and (2) of (Vellore) Coimbatore Corporation Act, 1981 to the 2nd respondent and it is also followed by reminder representations dated 02.01.2021 and 04.02.2021 respectively and despite receipt and acknowledgment, the 1st respondent has failed to take any kind of action. Therefore, the petitioner is constrained to approach this Court by filing this Writ Petition.

5. This Court heard the submissions of the learned counsel appearing for the petitioner and Mr.G.M.Shankar, learned counsel appearing for the 2nd respondent and Mr.E.William, learned counsel appearing for respondents 3 and 4.

6. 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 petitioner, either in his representations or in this Writ Petition, directs the 5th respondent to put the petitioner as well as the respondents 2 to 4, on notice and cause inspection of the superstructure in Old Door no.35, Thukkaram Bajanai Koil Street, Filterbed road, Vellore, with the aid of the relevant records and if the result of the inspection reveals any infraction or violation, shall take appropriate action in accordance with law, by adhering to the principles of natural justice and complete the said exercise within a period of ten weeks from the date of receipt of a copy of this order / uploading of the order in the Website and communicate the decision taken to the petitioner as well as to the respondents 2 to 4.

7. The Writ Petition stands disposed of with the above observations.No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Vellore Corporation,
Vellore-1.

2.The Town Planning Officer,
Vellore Corporation,
Vellore-1.

+1 cc to Mr.A. Ilangovan, Advocate, SR.NO.21407

W.P.No.12124 of 2020

GPL (CO)
NS (04/05/2021)