



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2021

CORAM

THE HON'BLE MR.JUSTICE T. S. SIVAGNANAM
and
THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.5181 of 2021
and W.M.P. (MD)No.4153 of 2021

1.M.Rajendran
2.A.Venkatesan
3.M.Kavitha
4.S.Sornam

...Petitioners

-Vs-

1.The Commissioner,
Thanjavur Corporation,
Thanjavur District - 613 005.

2.R.Venkatakrishnan

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the first respondent to prevent the 2nd respondent from his illegal activities by way of altering the building plan and using and utilizing the terrace area for Pigeon Race made in the property of "KRISHNA APARTMENT" No.38, Municipal Colony, Thanjavur by considering the petitioner's representation dated 29.01.2021.

For Petitioner : Mr.R.Rajaraman

For Respondents : Mr.N.Dhilp Kumar for R1
Mr.M.R.Sreenivasan for R2

ORDER

[Order of the Court was made by **T. S. SIVAGNANAM, J.,**]

The petitioner by way of this Writ Petition, seeks for the issuance of a writ of Mandamus, directing the first respondent to prevent the second respondent from his illegal activities by way of altering the building plan and using and utilizing the terrace area for Pigeon Race made in the property of "KRISHNA APARTMENT" No.38, Municipal Colony, Thanjavur by considering the petitioner's representation dated 29.01.2021.



2. We have elaborately heard Mr.R.Rajaraman, learned counsel appearing for the petitioner, Mr.N.Dilip Kumar, learned counsel appearing for the first respondent and Mr.M.R.Sreenivasan, learned counsel appearing for the second respondent.

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3. The dispute is though initially projected as an illegal activity being carried on by the second respondent contrary to the planning permission, after counter affidavit is filed and after documents are placed before us, it is seen that the dispute is essentially between the flat owners in an apartment called as "Krishna Apartments". The second respondent is the owner of the land, who is entered into a joint development agreement with the builder and as a part of the contract, 5 flats have been allotted to the second respondent in lieu of consideration for the extent of undivided share of the land handed over to the builder, which in turn has been sold for appropriate proportion to the petitioner and other purchasers. The dispute is essentially an in-house dispute, to be sorted out among themselves by the association and if necessary, by inviting a mediator and in the best interest of the residents of the apartment complex, it is better that the officials of the Thanjavur Corporation are kept away from the dispute. If there is any Pigeon shed in the terrace area, the second respondent is advised to remove the same in the interest of the residents of the apartment complex. If there is any dispute regarding the car parking area, that can very well be sorted out between the petitioner and the second respondent. The petitioner should also bear in mind that it is the land, which was owned by the second respondent, on which the development was taken place and he has retained more than 40% of the undivided share of land, as he is the owner of 5 flats.

4. This Court sincerely feels that the issue should not be dragged into any legal forms and the matter should be settled amongst themselves.

5. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

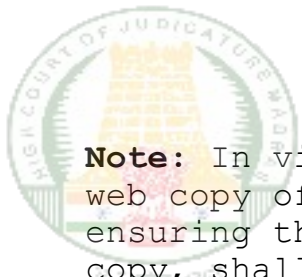
Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

vsm

To

The Commissioner,
Thanjavur Corporation,
Thanjavur District - 613 005.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-17603[F] dated 27/04/2021)

+1 CC to M/s.R.RAJARAMAN, Advocate (SR-17616[F] dated 27/04/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-17688[F] dated 27/04/2021)

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GS (10.06.2021) 3P 5C