



WEB COPY

W.P.[MD]No.8728 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. [MD]Nos.8728 & 8753 of 2020

and

W.P(MD)Nos.5017 & 5018 of 2020

W.P. [MD]No.8728 of 2020

V.Eswaran

... Petitioner

Vs.

- 1.The Commissioner,
Office of the Theni Allinagaram Municipality,
Theni, Theni District.
- 2.The Commissioner of Municipal Administration,
Office of the Municipal Administration Department
N.75, Santhome Highway, 10th Floor,
Raja Annamalaipuram,
Chennai - 28.

- 3.V.S.Sandeep
- 4.C.Pounmani
- 5.R.Manikandan
- 6.M.Murugan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to initiate proceedings against the illegally constructed building of the respondents 3 to 6 as per Section 56 and 57 of the Town and Country Plainning Act, 1971 in respect of Survey Nos.514, 233/1, 251 and 252 situated at Allinagaram Village, Theni District, based on the petitioner's representation, dated 10.03.2020.

For Petitioner	: Mr.V.Eswaran, party in person
For 1st Respondent	: Mr.Hema Karthikeyan, Standing Counsel
For 2nd Respondent	: Mr.N.Shanmugaselvam Additional Government Pleader

W.P. [MD]No.8753 of 2020

V.Eswaran

... Petitioner

Vs.



- 1.The Commissioner,
Office of the Theni Allinagaram Municipality,
Theni, Theni District.
- 2.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.
- 3.The Commissioner of Municipal Administration,
Office of the Municipal Administration Department
N.75, Santhome Highway, 10th Floor,
Raja Annamalaipuram, Chennai - 28.
- 4.The District Collector,
Theni,
Theni District.

5.C.Pounmani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to implement his order passed dated 28.01.2020 in Na.Ka.No.2493/2019/F1 as per Section 56 and 57 of the Town and Country Planning Act, 1971 in respect of Survey No.1695/1A, Door No.1369-D, Allinagaram Village, Theni District.

For Petitioner	: Mr.V.Eswaran, party in person
For 1st Respondent	: Mr.Hema Karthikeyan, Standing Counsel
For Respondents 2 to 4	: Mr.N.Shanmugaselvam Additional Government Pleader
For 5th respondent	: No Appearance

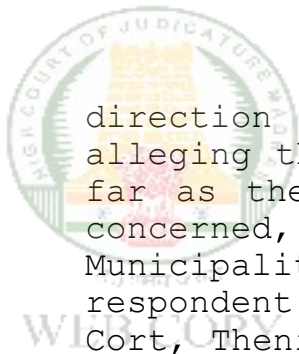
COMMON ORDER

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

Heard Mr.Eswaran, party appearing in person and Mr.Hema Karthikeyan, learned Standing Counsel for the first respondent, Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents 2 to 4.

2.In both the writ petitions, the petitioner seeks for a

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direction to initiate action against the private respondents alleging that there is an illegal and unauthorized construction. So far as the relief sought for in writ petition No.8753 of 2020 is concerned, the learned Standing Counsel for the first respondent Municipality submitted that a suit has been filed by the fifth respondent in O.S.No.15 of 2020 on the file of the District Munsif Court, Theni and an order of *status quo* was granted on 09.12.2020 and the petitioner - Mr.Eswaran was also impleaded himself in the said suit. Therefore, for the present, the directions sought for in WP. (MD)No.8753 of 2020 cannot be granted and the writ petition is closed, giving liberty to the petitioner to work out his remedy in the pending civil suit or after the conclusion of the proceedings before the Civil Court.

3.Insofar as the WP.(MD)No.8728 of 2020 is concerned, it is submitted by the party appearing in person that recently unauthorized construction has been put up. The learned counsel for the first respondent Municipality submitted that final decree proceedings are pending before the Civil Court. In any event, it is always open to the Municipality to inspect and ascertain whether there is any unauthorized or illegal construction which has been put up. The allegation made by the petitioner appearing in person is that the entire building is not 15 years old, but unauthorized construction has been put up very recently.

4. Considering the submissions made on either side, without issuing any positive direction as sought for in the writ petition, we direct the respondent Municipality to conduct a surprise inspection of the building and if it is found that there is any unauthorized construction put up recently, necessary action shall be initiated in accordance with law, after issuing notice to all the parties.

5. In the result,
- (i) W.P(MD) No.8728 of 2020 is disposed of with the above directions.
 - (ii) W.P(MD) No.8753 is closed with the above observations.
 - (iii) No costs. Consequently, connected miscellaneous petitions are closed.

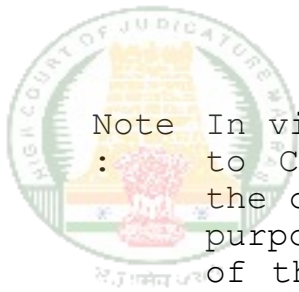
Sd/-

Assistant Registrar (AE)

// 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.

RM

To

- 1.The Commissioner,
Office of the Theni Allinagaram Municipality,
Theni, Theni District.
- 2.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.
- 3.The Commissioner of Municipal Administration,
Office of the Municipal Administration Department
N.75, Santhome Highway, 10th Floor,
Raja Annamalaipuram, Chennai - 28.
- 4.The District Collector,
Theni,
Theni District.

+2 CC to M/s.V.ESWARAN, Advocate (SR-16850,16851[F] dated 21/04/2021)

W.P. [MD]Nos.8728 & 8753 of 2020

19.04.2021

GS (20.05.2021) 4P 7C