



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.10600 of 2021

and W.M.P. (MD)No.8259 of 2021

WEB COPY

S.Shanmugasundaram

... Petitioner

Vs.

1.The Executive Officer,
Paravai Special Grade Town Panchayat,
Madurai District.

2.N.Nallathambi

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records of the impugned order in Na.Ka.No.37/2021 dated 18.06.2021 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.P.Thilak Kumar,
Government Advocate for R1.

ORDER

This Writ Petition has been filed challenging the impugned notice issued by the first respondent dated 18.06.2021, wherein the petitioner has been directed to close down the business, failing which the respondent will be forced to seal the property.

2. Based on the complaint made by the residents to the effect that the petitioner is carrying on with an industrial activity in a residential area, a writ petition was filed before this Court in W.P.(MD)No.23138 of 2019. This Court, disposed of the said Writ Petition, by an order dated 26.04.2021. The relevant portions in the order are extracted hereunder:

"6. It is clear from the above that even as per the stand taken by the 3rd respondent, the respondents 4 to 6 have not got any approval to run an industrial unit in a residential area. In fact, the 3rd respondent has granted approval to the respondents only for putting up residential building. Having taken such a stand, the 3rd respondent cannot turn a blind eye and permit the respondents 4 to 6 to run the illegal industrial units. By now, action should have been taken and the industrial units should have been closed. Unfortunately, the same has not been done.

7. This Court has absolutely no hesitation to allow

~~this writ petition~~ and issue appropriate directions to



the 3rd respondent. Accordingly, the 3rd respondent is directed to immediately take action against the respondents 4 to 6 and close down the industrial units, which are being run without getting any permission/approval. This process shall be completed by the 3rd respondent within a period of four(4) weeks from the date of receipt of a copy of this order.

8. The petitioners are directed to make a fresh representation to the 3rd respondent along with all the relevant documents and also a copy of this order. The copy of the representation shall also be marked to the first respondent."

3. Pursuant to the above order, the impugned notice came to be issued by the first respondent, directing the petitioner to stop the industrial activity, failing which, the property will be sealed. Aggrieved by the same, the present Writ Petition has been filed before this Court seeking for appropriate directions.

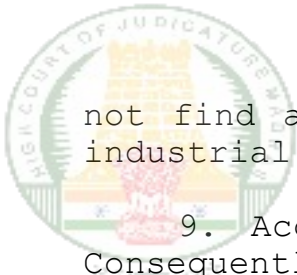
4. The learned counsel for the petitioner submitted that the petitioner has been carrying on with the business for a very long time and he is already facing a lot of financial constraints, since he has taken loans from the banks and therefore, some time may be given to the petitioner to look for an alternative place to continue the business. The learned counsel further submitted that the petitioner is even willing to file an undertaking affidavit to that effect.

5. Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner and Mr.P.Thilak Kumar, learned Government Advocate appearing for the first respondent.

6. In the considered view of this Court, the petitioner got a sanction for putting up a residential building and in gross violation of the same, started running a Paver Block unit and thereby, he was causing nuisance to the nearby residents and the same was taken into consideration by this Court, while the earlier orders was passed on 26.04.2021. Pursuant to the directions issued by this Court, the first respondent has proceeded to issue the impugned notice.

7. It may be true that the petitioner may be put to hardship due to the closure of the business. However, the petitioner cannot be permitted to continue with the business at the cost of the hazard and nuisance that is caused to the nearby residents and this Court has to necessarily consider the larger interest in cases of this nature.

8. This Court does not find any illegality or infirmity in the impugned notice issued by the first respondent and this Court does



not find any ground to permit the petitioner to continue with the industrial activity in the subject property.

9. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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
The Executive Officer,
Paravai Special Grade Town Panchayat,
Madurai District.

W.P. (MD) No.10600 of 2021
and W.M.P. (MD) No.8259 of 2021
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