



W.P.No.2676 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.02.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI
AND
THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

W.P.No.2676 of 2023
AND
W.M.P.No.2776 of 2023

K.Kandan

.. Petitioner

Vs.

1.The Commissioner
Kallakurichi Municipality

2.Sorubarani

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents to consider the petitioner's representation dated 03.12.2022 and consequently direct the 1st respondent to stop illegal construction by the 2nd respondent in property bearing S.No.76/10, Kachirapalayam Main Road, Kallakurichi.

For Petitioner : Mr.S.N.Subramani
For 1st Respondent : Mr.Lourdu Paul Maurya
Standing Counsel



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ORDER

(Order of the Court was made by V.M.VELUMANI, J.)

Writ Petition is filed for a direction to the 1st respondent to consider the petitioner's representation dated 03.12.2022 and to stop the illegal construction of the 2nd respondent in the property bearing S.No.76/10, Kachirapalayam Main Road, Kallakurichi.

2. By consent of both the learned counsel appearing for the petitioner as well as Mr.Lourdu Paul Maurya, learned Standing Counsel, who takes notice for the 1st respondent, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a resident of Kallakurichi. After obtaining planning permission from the 1st respondent, the petitioner constructed a house in his property in S.No.76/10 as per the plan. In the adjacent land of the petitioner, the 2nd respondent is constructing a house, without getting planning permission



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from the authority concerned. In this regard, the petitioner gave a representation to the 1st respondent on 20.12.2019, seeking to stop the illegal construction of the 2nd respondent. The 2nd respondent is working as a Noon Meal Organiser and her husband is a retired Tahsildar. Since the 2nd respondent and her husband are politically influential, the 1st respondent is not taking any action against the 2nd respondent. Hence, the petitioner filed W.P.No.4948 of 2020 for a writ of mandamus directing the 1st respondent to consider his representation dated 20.12.2019 and to stop the illegal construction of the 2nd respondent.

4. The learned counsel appearing for the petitioner further submitted that when the said writ petition was taken up for hearing, the learned Standing Counsel submitted that the 1st respondent has taken action under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 (in short “the Act”) and issued notices to the petitioner as well as the 2nd respondent. This Court, recorded the said submission dismissed the writ petition on 11.11.2022, with a direction to the 1st respondent to pursue the action taken till its logical end. Since the 1st respondent did not pursue any



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action against the 2nd respondent, the petitioner again sent a representation dated 03.12.2022 to the 1st respondent. Till date, no action has been taken on the said representation dated 03.12.2022. Hence, the petitioner has come out with the present writ petition.

5. The learned Standing Counsel appearing for the 1st respondent, on instructions, submitted that pursuant to the action taken under Sections 56 and 57 of the Act, the 2nd respondent had stopped her construction and there is no further construction as alleged by the petitioner.

6. Earlier, this Court passed the following order on 11.11.2022 in W.P.No.4948 of 2020 :

“The prayer in the writ petition is as follows :

"To issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 20.12.2019 and consequently direct the first respondent to stop illegal construction by the second respondent in property bearing S.No.7/10, Kacirapalayam Main Road, Kallakurichi."

2. The learned counsel for the Municipality has filed the typed set of papers, a perusal of which shows that the Municipality has taken action under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and notices have been issued both to the petitioner and the second respondent.



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3. In view of the same, the writ petition is dismissed as having become infructuous. It is for the Municipality to pursue the action taken to its logical end. No costs.”

This Court directed the 1st respondent to initiate action, pursuant to the notice issued to the 2nd respondent. In spite of such a specific direction, the 1st respondent did not take any action against the 2nd respondent under Sections 56 and 57 of the Act.

7. In view of the above, the 1st respondent is directed to initiate further proceedings under Sections 56 and 57 of the Act, pursuant to the notice dated 17.06.2022 issued to the 2nd respondent and file a status report to this Court within two weeks.

With the above directions, this writ petition is disposed of. No costs. Connected Miscellaneous Petition stands closed.

Post the matter “for reporting compliance” on 20.02.2023.

(V.M.V.,J.) (R.H.,J.)
02.02.2023

Internet : Yes / No
Neutral citation : Yes/No
gya

V.M.VELUMANI, J.



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To
The Commissioner
Kallakurichi Municipality



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AND
R.HEMALATHA, J.

gya

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