



W.P. No. 10432 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 10432 of 2022

N.Chandrasekara Vellaiyan

... Petitioner

-VS-

1. The State Information Commissioner, Chennai,
Tamil Nadu State Information Commission,
No.19, Government Form Village,
Nandanam, Chennai – 600035.
2. The Appellate Authority,
City Engineer,
Tiruchirapalli City Corporation,
Bharathiyar Salai,
Cantonment,
Tiruchirapalli – 620001.
3. State Public Information Officer / Assistant Commissioner,
Co.Abishekapuram Division,
Trichy Municipal Corporation,
Promenade Road,
Cantonment,
Tiruchirapalli – 620001.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records leading to pass the impugned order of the First Respondent in SA.10759/A/2021 though dated 02.12.2021, it is signed on 17.12.2021 and dispatched on 24.12.2021 and quash the same.



WEB COPY



W.P. No. 10432 of 2022

For Petitioner : Mr. K.P.Suresh Kumar

For Respondents : Mr. C.Vigneswaran (for R1)

Mr. U.Baranidharan,
Additional Government Pleader
(for R2 & R3)

ORDER

Heard Mr. K.P.Suresh Kumar, Learned Counsel for the Petitioner, Mr. C.Vigneswaran, Learned Standing Counsel appearing for the First Respondent, Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had earlier filed the Writ Petition in W.P. (MD) No. 3928 of 2013 before the Madurai Bench of this Court seeking a direction to stop construction of a structure said to have been illegally put up by one Vanaja and Arunkumar Dass by encroaching part of his land in Plot No. 8 in T.S. No. 27/30B, Old T.S. No. 3887 at Block No. 60, Ward No. 30, New Ward 'G' measuring an extent of 2320 sq.ft. in which the Second Respondent was directed to consider the representation dated 07.03.2013 made by the Petitioner



W.P. No. 10432 of 2022

in that regard, after giving notice to the private parties. In furtherance to the

WEB said order, the Second Respondent by proceedings in Na.Ka.No.F1/3559/

2013(Ko.A.Pe) dated 08.04.2013 informed the Petitioner that necessary action against the said illegal construction has been taken with details in that regard.

Subsequently, the Petitioner made an application dated 11.03.2021 for obtaining information under the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act' for short) to the Second Respondent requesting to

state at what stage the aforesaid matter stands. As it did not evoke any response,

the Petitioner preferred appeal dated 19.04.2021 under Section 19(1) of the RTI

Act before the Appellate Authority. Thereafter, the Second Respondent by

Proceedings in Na.Ka.No.2514/2021/F1(Ko.Api) dated 28.05.2021

communicated to the Petitioner that fine of Rs. 1,000/- in STC No. 881/2013

has been levied on the persons making unauthorized construction, which has

been remitted by them on 28.06.2013 and thereafter all constructions in that

property have been restrained. A second appeal in Case No. SA 10759/A/2021

was preferred by the Petitioner before the First Respondent under Section 19(3)

of the RTI Act contending that the incorrect and misleading information had

been furnished by the Second Respondent, and after conducting enquiry, the

First Respondent by proceedings dated 02.12.2021 came to the conclusion that

the information furnished by the Second Respondent to the Petitioner was



W.P. No. 10432 of 2022

factually correct and disposed it. Aggrieved thereby, the Petitioner has filed this Writ Petition.

3. It is borne out from the materials placed on record that the matter relates to a property in Tiruchirappalli situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated by the Petitioner for approaching the Principal Seat of this Court instead of Madurai Bench is that the office of the First Respondent is located in Chennai. There cannot be any doubt that the First Respondent exercises powers for the whole of the State of Tamil Nadu, but it cannot mean as if the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai. Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this Court, the principle of *forum conveniens* would come into play as held by the Division Bench of this Court in **C.Ramesh -vs- Director General of Police** (Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), as follows:-

“7. Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTEHRS (2001 (2)



W.P. No. 10432 of 2022

SCC 294) and *B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))*].

8. *It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)]*.

9. *Referring to KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA (2004 (3) CTC 365), a Full Bench of this Court in SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE AND OTHERS (2007 (5) CTC 305), held as under:-*

"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY, AIR 1941



W.P. No. 10432 of 2022

WEB COPY

CAL 670 : ILR (1941) 1 CAL 490; MADANLAL JALAN Vs. MADANLAL, 1945 (49) CWN 357: AIR 1949 CAL 495; BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN 122; S.S.JAIN & CO. Vs. UNION OF INDIA, 1994 (1) CHN 445, and NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126]."

10. *Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)].*

11. *A Court cannot arrogate/assume/confer upon itself a jurisdiction-territorial jurisdiction, when it has no such jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders*



W.P. No. 10432 of 2022

passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time.

Courts are barred from indulging in hypothetical and academic exercises.”

Having regard to the aforesaid legal position *viz-a-viz* factual matrix of this case, the cause of action for the Writ Petition, would have to be necessarily construed as having arisen wholly outside the territorial limits of jurisdiction of the Principal Bench of this Court, notwithstanding that the office of the First Respondent is located in Chennai. Moreover, when the Petitioner had on an earlier occasion chosen the Madurai Bench of this Court to ventilate the grievance against the Second Respondent in W.P. (MD) No. 3928 of 2013 as noticed supra, the doctrine of *forum conveniens* would desist this Court at the Principal Seat from entertaining any subsequent Writ Petition by the Petitioner in respect of the same matter.

4. That apart, on a perusal of the impugned order, there does not appear to be any infirmity in the decision-making process of the First Respondent warranting interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution.



W.P. No. 10432 of 2022

WEB COPY In the result, the Writ Petition, which is devoid of merits. is dismissed.

No costs.

07.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

Maya

To

1. The State Information Commissioner, Chennai,
Tamil Nadu State Information Commission,
No.19, Government Form Village,
Nandanam,
Chennai – 600035.
2. The Appellate Authority,
City Engineer,
Tiruchirapalli City Corporation,
Bharathiyar Salai,
Cantonment,
Tiruchirapalli – 620001.
3. The State Public Information Officer / Assistant Commissioner,
Co.Abishekapuram Division,
Trichy Municipal Corporation,
Promenade Road,
Cantonment,
Tiruchirapalli – 620001.



WEB COPY



W.P. No. 10432 of 2022

P.D. AUDIKESAVALU, J.

Maya

W.P. No. 10432 of 2022

07.12.2023