



CRP No.9 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.07.2023

CORAM:

**THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN**

**CRP No.9 of 2016**  
**and CMP No.17 of 2016**

C.H.S.Gopi

Vs

... Petitioner

1. Thiruvottiyur Nagara Vanniyarkula Shakthiriyar Trust  
Represented by its Trustees

1. V.M.Gajapathy
2. R.Murugesan
3. Panneerdoss
4. S.Egambaram
5. R.Dakshinamoorthy
6. V.V.Arasu
7. V.Gnanasekar
8. R. Bhoopathy
9. T.M.Senthil
- 10.M. Mani
- 11.S.Parthiban
- 12.P.Jeyakumar
- 13.Aeegounder
- 14.G.Sankar
- 15.N.Dilli

2. The Commissioner,  
Chennai corporation,  
Rippon Building,  
P.H.Road, George Town, Chennai-600 003.



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3. The Regional Deputy Commissioner (North),  
Chennai Corporation,  
Basin Bridge Road,  
Chennai-600 079

4. The Executive Engineer,  
Zonal Office, Zone-1,  
Chennai Corporation,  
T.H.Road,  
Thiruvottiur,  
Chennai-600 019

... Respondents

**PRAYER:** Civil Revision Petitions filed under Article 227 of the Constitution of India to strike off the suit in O.S.No.3 of 2015 pending on the file of District Munsif Court, Thiruvottiur.

For Petitioner : Mr.P.Valliappan  
Senior Counsel for  
Mr.S.M.S.Shriram Narayanan

For Respondents : Ms.A.L.Gandhimathi  
Senior Counsel for  
Mr.L.Palanimuthu  
For R.1  
Mr.B.B.Senthil Kumar  
For R.2 to R.4

### **ORDER**

The suit in O.S.No.3 of 215 is the subject matter of the present revision.



2. The proceeding relates to an unauthorised construction put up by the first respondent. Originally, W.P.No.12056 of 2014 was presented before this Court, seeking for a writ of mandamus to direct the state authorities to take enforcement action/demolish the superstructure put up in an unauthorised manner by the plaintiffs herein. The writ petition was filed by the civil revision petitioner and this Court by order dated 25.10.2013 passed the following order:-

*“ . 4. We are not inclined to go into the question of the construction put up by the petitioner is unauthorised or not. It is only the allegations made by the respondents 5 to 8 in their counter affidavit. We are of the view that if there is any violation of building rules resulting in unauthorised construction, it is well open to the authorities to take appropriate action against such persons. The records would show that stop work notice has already been issued by the Corporation of Chennai followed by the notice proposed to lock the premises. It is also brought to notice that the respondents 5 to 8 have given fresh application to the Corporation of Chennai seeking planning permission.*



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*5. Considering the above said fact, we deem it appropriate to direct the respondent No.1 to conduct enquiry on the representation made by the petitioner Visa Vis the application seeking permission given by the respondents 5 to 8 and pass appropriate orders on merit and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.”*

3. Pursuant to the order of this Court, the authorities had issued a lock and seal notice, which was challenged by the plaintiffs before this Court. When the matter came up for admission on 24.06.2014, learned counsel for the writ petitioners(plaintiffs herein) withdrew the writ petition on the ground that statutory remedy is available as against the lock and seal.

4. Mrs.A.L.Gandhimathi, learned Senior counsel would submit that instead of going for an appeal, they moved application for regularisation of the building. In other words, the order of the lock and seal issue, which was



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the subject matter of challenge before this Court, has become final.

Thereafter, the suit in O.S.No.3 of 2015 has been presented before the District Munsif, Thirvottiriyur challenging the order dated 09.09.2014 which was issued pursuant to the order of this Court.

5. I am afraid that learned District Munsif cannot interfere in a proceeding which has been initiated pursuant to the orders of this Court and especially when a challenge was made before this Court and the plaintiffs, as writ petitioners, also withdrew the proceedings. Apart from that there is a bar of jurisdiction of civil Court. The Civil Court cannot over reach the orders of this Court and seek to nullify the same. The order extracted above would show that (i) action was initiated pursuant to the orders of this court and (ii) the action was challenged and the petitioners/plaintiffs took the liberty of this Court to file an appeal, but did not file appeal.

6. A civil Court is not a substitute to the Government under the Tamil Nadu Town and Country Planning Act or standing committee under the Madras City Municipal Corporation Act. When a statutory authority has jurisdiction to deal with this matter, the jurisdiction of the civil



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**V.LAKSHMINARAYANAN,J.**

Sr

court having been specifically ousted, even if not where, would be impliedly barred. I am not able to sustain the plaint as it is contrary to the orders of the Division Bench dated 25.10.2013 and 24.06.2014.

7. The learned District Munsif is directed to strike off the plaint. The Civil Revision Petition is allowed. I make it clear that I have not gone into the merits of the case pertaining to the legality or otherwise of the superstructure. It is always open to the plaintiff/first respondent to work out his right in accordance with the Town and Country Planning Act.

No costs. Consequently, connected miscellaneous petition is closed.

**10.07.2023**

Index:Yes/No

Speaking order/Non-speaking order

sr

To

The District Munsif Court, Thiruvottiyur.

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