



W.P.No.18265 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2023

Coram:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE P.DHANABAL

Writ Petition No.18265 of 2020
and
W.M.P.No.22648 of 2020
--

J.R.Babu

.. Petitioner

Vs.

1. The Commissioner,
Hosur Corporation,
Hosur, Krishnagiri.

2. V.Muralikrishna

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to initiate action as against the illegal construction being put up at the instance of the second respondent at T.S.No.195 to 201 measuring an extent of 2500 Square Feet in Namalpet, Hosur, based on the representation of the petitioner, dated 05.10.2020.



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For petitioner : M/s.R.Poornima

For respondents: Mr.N.Subbarayalu for R-1

No appearance for R-2

ORDER

(The Order of the Court was made by D.Krishnakumar, J)

This Writ Petition has been filed to initiate action for removal of unauthorised construction in the property in question.

2. The petitioner has made a representation to the first respondent on 05.10.2020, but no action has been taken. Hence, the Writ Petition.

3. Status report, dated 28.05.2021 has been filed by the first respondent-Commissioner of Hosur City Municipal Corporation, relevant portion of which reads as follows:

"3. I submit that considering the petitioner's representation dated 05.10.2020, this respondent after inspection of the petitioner's property noted that the commercial building ground plus one measuring to an extent of 624 square feet and issued show cause notice to the second



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respondent under section 296(1),(2) of the Hosur City Municipal Corporation Act, 2019 asked him to explain why the unauthorised commercial building constructed by him shall not be demolished and failing which the demolition order will be confirmed and demolition process will be taken against the unauthorised commercial building.

4. I submit that since the 2nd respondent did not respond to the show cause notice, this respondent confirmed the unauthorised construction and its demolition process by issuing notice dated 20.11.2020 under section 296(3) of the Hosur City Municipal Corporation Act 2019, to the 2nd respondent confirming the order of demolition and asked him to demolish the unauthorised commercial building constructed by him within seven days failing which he will be prosecuted for punishment under section 471(1)(2) of the Act 2019 and the unauthorised constructed building will be demolished by the authority and the cost of demolition will be recovered from him under section 472(1), 478 of the Hosur City Municipal Corporation Act 2019.

5. I submit that before demolition of the building constructed unauthorisedly, the building has to be kept under lock and seal, therefore this respondent by his letter dated 18.03.2021 to the Member Secretary of the Hosur New Town Development Authority who is the competent authority to put the unauthorised building under lock and seal under section 56 and 57 of the Tamil Nadu Town and Country Planning Act 1971 and by the above said letter the Member Secretary, Hosur New Town Development Authority was asked to take action against the Building unauthorised construction by the 2nd



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respondent for lock and seal as provided under the Act 1971."

4. Therefore, from the above status report, it is clear that according to the first respondent-Commissioner of Hosur City Municipal Corporation, action will be taken under the relevant provision of law. According to the first respondent, the competent authority is the Member Secretary of the Hosur New Town Development Authority, who has to take further action for lock and seal/demolition of the unauthorised construction in the property.

5. The petitioner has not impleaded the Member Secretary of the Hosur New Town Development Authority as a party-respondent in this Writ Petition. While considering the fact that the present Writ Petition has been filed as against the first respondent-Commissioner of Hosur City Municipal Corporation, and that the first respondent has taken steps and initiated action against the second respondent by issuing notice and also the same was communicated to the said Member Secretary. Therefore, it is for the Member Secretary of the Hosur New Town Development



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Authority, to take steps with regard to the unauthorised/illegal construction/deviation, if any, in the property in question.

6. Therefore, in view of what is stated above, the petitioner has to make appropriate representation to the Member Secretary of the Hosur New Town Development Authority, Hosur, with regard to the unauthorised/illegal construction/deviation/violation, if any of the sanctioned plan, in respect of the property in question, within period of two weeks from the date of receipt of a copy of this order. If such a representation is made by the petitioner, the Member Secretary of the Hosur New Town Development Authority, Hosur is directed to consider the said representation, conduct enquiry, afford an opportunity of hearing to the petitioner and the parties concerned, including the second respondent, and pass appropriate orders and dispose of the said representation, on merits and in accordance with law, as expeditiously as possible. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the said Member Secretary to decide the same at the time of disposing of the said representation purely on merits.

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(D.K.K,J) (P.D.B.,J)
14.06.2023

Speaking Order: Yes/no
Neutral Citation: Yes/no
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Registry is directed to issue this order copy
to the Member Secretary of the Hosur New Town Development
Authority, Hosur.

To

1. The Commissioner,
Hosur Corporation,
Hosur, Krishnagiri.
2. The Member Secretary,
Hosur New Town Development Authority,
Nethaji Road, Anna Nagar, Hosur, Tamil Nadu, 635 109.

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