



W.P.No.25508 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.No.25508 of 2019
and W.M.P.Nos.25035 and 25037 of 2019

M.Haja Abdul Hameed

... Petitioner

Vs.

1.The Commissioner
Nagapattinam Municipality
Nagapattinam
Nagapattinam District

2.M.Junaidha Nachiyar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 1st respondent to take immediate action against the 2nd respondent and against her unauthorised and deviated constructions at Door No.7, South Street, Nagoor, Nagapattinam District based on the petitioner's representation dated 28.06.2019.



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For Petitioner :: Mr.A.S.Kaizer

For Respondents :: Mr.P.Srinivas for R1
Mr.A.S.Balaji for R2

ORDER

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

This writ petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 1st respondent to take immediate action against the 2nd respondent and against her unauthorised and deviated constructions at Door No.7, South Street, Nagoor, Nagapattinam District based on the petitioner's representation dated 28.06.2019.

2.Learned counsel for the petitioner submitted that the petitioner is residing in Door No.8, South Street, Nagoor, Nagapattinam District and the 2nd respondent is residing in Door No.7, South Street, Nagoor, Nagapattinam District. The 2nd respondent has constructed a residential building in the aforesaid property in question and according to the petitioner the 2nd respondent has got permission only for the ground and first floor but



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the contrary to the planning permission, the 2nd respondent has unauthorisedly constructed the second floor and also there is a deviation in the set backs and the same is also contrary to the building plan approval. Hence, the petitioner has made a representation to the 1st respondent on 28.06.2019 through R.P.A.D for taking action against the 2nd respondent for the violation of the building plan rules, but till date the 1st respondent has not initiated any action for the said violation. Therefore, he has filed the above writ petition before this Court.

3.Learned counsel appearing for the 2nd respondent has stated that the 2nd respondent has not violated the rules and that she has constructed the building only as per the approved plan and there is no violation or deviation in the construction of the building. Therefore, the allegation of the petitioner is incorrect and the petition is liable to be dismissed.

4.The writ petition is filed in the year of 2019. Notice has been ordered by this Court on 04.09.2019. This Court has also directed the 1st respondent to inspect the site and to ensure that there is any deviation in the



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construction. Despite the order passed by this Court, the 1st respondent has not chosen to file any report before this Court nor filed any counter affidavit. This matter even came up before this Court on 21.06.2023 and the learned A.G.P. also appeared before this Court. At the request of the learned counsel for the 1st respondent, the matter is posted today. Even today the learned counsel for the 1st respondent is seeking further time for filing counter affidavit. This Court is not inclined to accept the said request made by the learned counsel for the 1st respondent. The 1st respondent has not cared to give respect to the directions issued by this Court. Therefore, we are taking the conduct of the 1st respondent very seriously and therefore this Court *suomotu* impleads the District Collector, Nagapattinam, and consequently directs the District Collector, Nagapattinam to take necessary action against the 1st respondent for non filing of the report as directed by this Court on 01.10.2019 and also for not filing any counter affidavit in this regard.

5.Secondly, this Court also directs the District Collector to instruct the 1st respondent to inspect the property in question and if they found any



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violations or deviation in the constructions, action shall be taken as against the 2nd respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order. The parties may be provided with an opportunity of hearing before taking any action. The compliance report shall be filed before this Court within a period of twelve (12) weeks.

6.It is made clear that the direction has been passed by this Court only for the prayer of unauthorised construction of the property in question.

7.With the above direction, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

(D.K.K.,J.)

(P.D.B.,J.)

23.06.2023

Index : yes/no

Neutral citation : yes/no

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Note to Registry: To *suomotu* implead the District Collector, Nagapattinam as a party as directed in the order.



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D.KRISHNAKUMAR,J.

AND

P.DHANABAL,J.

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To

The Commissioner
Nagapattinam Municipality
Nagapattinam
Nagapattinam District

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