



W.P.No.23917 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.23917 of 2023

M/s. MNS Enterprises
Rep. by its Proprietor V.Mohana Priya
Having Office at Plot No.A-29
Casa Grande Palm Meadows Main Road
Vengadamangalam
Chennai 600 127.

.. Petitioner

Vs.

1. The District Collector
Office of the District Collector
Chengalpet District
Chengalpet.

2. The President
Vengadamangalam Panchayat
Kattangalathur Panchayat Union
Chengalpet District.

3. M/s. Casa Grande Urbano Owners Association
Rep. by its Secretary
Casa Grande Palm Meadows Main Road
Vengadamangalam
Chennai 600 127.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent dated 06.07.2023, 11.07.2023 and thereafter, sealing the premises of the petitioner on 20.07.2023 and quash the same as illegal and arbitrary.

For the Petitioner : Mr.Adinarayana Rao

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for Respondents 1 & 2

Mr.A.Ashwin Kumar
for Respondent-3

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.Adinarayana Rao, learned counsel for the petitioner, Mr.P.Muthukumar, learned State Government Pleader for the respondents 1 and 2 and Mr.A.Ashwin Kumar, learned counsel for the third respondent.

2. The order dated 06.07.2023 directing the petitioner to remove the encroachment and the building is assailed.



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3. The impugned order refers to the notice dated 02.06.2023.

The impugned order further states that as 34 days had passed beyond the notice date, on receipt of that notice, the set up has to be removed within three days. In fact, the notice dated 02.06.2023 is quashed and set aside by the learned Single Judge of this Court in W.P.No.17780 of 2023 under its order dated 23.06.2023. Paragraph 6 of the said order reads thus:

“6. In the light of the above reasoning, this Court is inclined to interfere with the impugned notice dated 02.06.2023 issued by the second respondent and accordingly, the same is hereby quashed. It is left open to the second respondent to issue a fresh notice to the petitioner along with all the reports/ complaints that were acted upon by the second respondent. The petitioner, on receipt of the notice, shall give their explanation. On receipt of the same, it is left open to the second respondent to take a decision on its own merits and in accordance with law. This process shall be completed by the second respondent within a period of six (6) weeks from the date of receipt of a copy of this order.”

4. In view of the aforesaid order, it was incumbent upon the



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authority to issue a fresh notice to the petitioner with all the reports and complaints that were taken into consideration while issuing the notice dated 02.06.2023.

5. The authority could not have relied upon the notice dated 02.06.2023 to pass the impugned order.

6. In the light of the above, the impugned order is quashed and set aside. It is made clear that there is no impediment for the respondents 1 and 2 to proceed in terms of the order of the learned Single Judge dated 23.06.2023 passed in W.P.No.17780 of 2023.

7. The writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.No.23430 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

04.10.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

1. The District Collector
Office of the District Collector
Chengalpet District
Chengalpet.
2. The President
Vengadamangalam Panchayat
Kattangalathur Panchayat Union
Chengalpet District.



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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J

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