



WEB COPY



W.P.No.24922 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Writ Petition No.24922 of 2017

Prabhakaran @ Rajkumar

.. Petitioner

Vs.

1.The District Collector
Collectorate Office
Salem District.

2.The District Revenue Officer
Salem Corporation
Salem District.

3.The Commissioner
Salem Corporation
Salem District.

4.The Assistant Director of
Town and Country Planning
Suramangalam, Salem District.

5.Bharath Kumar

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of

India, praying for issuance of a Writ of Mandamus directing the



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respondents 1 to 4 to consider and take action to the petitioner's representation dated 12.01.2017 with regard to illegal and unauthorised structure put up by the 5th respondent in Survey No.41/10, Narasoothipatti Village, Salem District and take action in accordance with law.

For Petitioner : Mr.D.Thirumoorthy
For R1 & R4 : Mr.P.Gurunathan
Additional Government Pleader
For R2 and R3 : Ms.N.Devi
Standing Counsel
For R5 : No appearance

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present writ petition for a direction to the respondents 1 to 4 to consider and take action to the petitioner's representation dated 12.01.2017 with regard to illegal and unauthorised structure put up by the 5th respondent in Survey No.41/10, Narasoothipatti Village, Salem District.



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2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 & 4 and learned Standing Counsel appearing for the respondents 2 & 3 and perused the entire materials on record.

3. According to the petitioner, his father is absolute owner of the property in D.No.2/144, Kamaraj Nagar, Narasoothipatti, Salem District. The 5th respondent is owner of property in S.No.41/2010, Narasoothipatti Village, Salem District. The 5th respondent has constructed the building in the said property without obtaining any building approval and permission. The petitioner gave several representations to the respondents 1 to 3 to take action against illegal construction being put up by the 5th respondent. They did not take any action against the 5th respondent. The respondents 1 to 3 issued stop work notice on 18.08.2016 to the 5th respondent and affixed the same in the building of the 5th respondent. In spite of same, the 5th respondent proceeded with construction and completed the same. The respondents 1 to 3 did not take further action. Hence, the petitioner has come out with the present writ petition for the above stated relief.



4. Though the 5th respondent has entered appearance through counsel, there is no representation for him, when the matter is taken up for hearing.

5. The 5th respondent filed counter affidavit stating that 5th respondent has put up construction only in S.No.41/1D and not in S.No.41/10. Similarly, he has put up construction ground + two floors only and not ground + three floors as alleged by the petitioner. The 5th respondent also stated that in the 2nd floor, he has constructed only one room. The 5th respondent applied for building plan, but it was not granted due to technical drawbacks. The respondents 1 to 3 instructed the 5th respondent to put up construction and informed the 5th respondent that the same can be resolved after completion of construction. The respondents 1 to 3 did not issue any stop work notice to the 5th respondent. The petitioner is friend of Venkatesh, who claims to have a share in the property purchased by 5th respondent. The said Venkatesh filed suit in O.S.No.281 of 2016 on the file of Principal Sub Court, Salem, for declaration of sale deed by which 5th respondent purchased as null and void. The petitioner is pressurising the 5th respondent to pay Rs.15,00,000/- to the said Venkatesh to resolve the issue. The petitioner



and Venkatesh are in the habit of giving complaint against innocent persons who put up construction in order to extract money from them.

The 5th respondent also has stated that he has given application to the 4th respondent for approval of the land and on obtaining approval from the 4th respondent, he will file application for regularisation.

6. Learned Additional Government Pleader appearing for the respondents 1 & 4 and learned Standing Counsel appearing for the respondents 2 & 3 submitted that on receiving representation from the petitioner, notice under Sections 274, 283, 296(1) & (2), 297 & 447 of Salem Municipal Corporation Act, 1994 was issued to the 5th respondent. Subsequently, the respondents 1 to 3 did not take any further action in pursuant to the said notice. The respondents 1 to 3 will take action against the 5th respondent within the time frame fixed by this Court taking into consideration the earlier notice issued by the respondents 1 to 3.

7. Considering the above submissions of the learned counsel appearing for the petitioner as well as learned Additional Government Pleader appearing for the respondents 1 and 4, the respondents 1 to 3 are



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directed to inspect the property and proceed further in pursuant to the notice dated 18.08.2016 and take action against the 5th respondent in accordance with law.

8.With the above directions, the writ petition stands disposed of.

No costs.

(V.M.V., J) (R.H., J)
06.02.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

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**V.M.VELUMANI,J.
and
R.HEMALATHA,J.**

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