



WEB COPY



W.P. No. 881 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM

THE HON'BLE MR.JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No. 881 of 2020

Bha. Saravanan

..Petitioner

Vs.

1. The District Collector,
Nagapatinam District,
Nagapatinam.
2. The Commissioner,
Nagapatinam Municipality,
Nagapatinam.
3. A.T. Maideen

Now detained at
Central Prison, Cuddapah,
Andhra Pradesh.

..Respondents



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Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 and 2 to demolish the remaining unauthorised portions as per the letter and spirit of the order dated 12.12.2017 passed in W.P. No. 16090 of 2017 and further direct the 3rd respondent to fix the petitioner's compound wall in its original position as it was before destroying it for erecting the building in property at No.4, Bungalow Club Road, (G.S.Pillai Nagar), Kadampadi, Nagapatinam Town, Nagapatinam Taluk and District.

For Petitioner	::	No appearance
For Respondents	::	Mr.A. Selvendran, Special Govt. Pleader for R1 Mr.P. Srinivas for R2 No appearance for R3

O R D E R

(Made by *S. Vaidyanathan,J.*)

The present writ petition is filed for issue of a Writ of Mandamus directing respondents 1 and 2 to demolish remaining unauthorised portions as per the letter and spirit of the order dated 12.12.2017 passed in W.P. No.



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16090 of 2017 and further direct the 3rd respondent to fix the petitioner's compound wall in its original position as it was before destroying it for erecting the building in property at No.4, Bungalow Club Road, (G.S.Pillai Nagar), Kadampadi, Nagapatinam Town, Nagapatinam Taluk and District.

2, The case of the petitioner is that the 3rd respondent, while putting up a construction in his land, had erected one of the parent walls on the compound wall of the petitioner's building causing damage and the complaint given by the petitioner to the 1st respondent to take action did not evoke any response. Hence, the petitioner filed W.P. No. 16090 of 2017 seeking a direction to respondents 1 and 2 to demolish the illegal and unauthorised construction made by the 3rd respondent in the light of the notice issued by the 2nd respondent dated 05.07.2016 within a time frame. The 2nd respondent also filed a counter stating that there was unauthorised construction made by the 3rd respondent and this Court, by order dated 12.12.2017 directed the 2nd respondent to proceed further in terms of Section 204(3) r/w 339 of the Tamil Nadu District Municipalities Act, 1920 and take appropriate action and intimate the decision taken to the petitioner as well as



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to the 3rd respondent. Subsequent to the order passed by this Court, steps were taken by the 2nd respondent to demolish the unauthorised portions.

During the pendency of the demolition proceedings, the 3rd respondent approached this Court by way of W.P. No. 19707 of 2018 seeking a direction to 1st and 2nd respondents to permit him to do patch work in the demolished portion of his property without any hindrance from the 2nd respondent and petitioner herein. By order dated 05.12.2018, the said writ petition was disposed of by issuing certain directions to the 2nd respondent and the 3rd respondent as well as to the petitioner herein and the 2nd respondent was asked to depute any officer to look into the patchwork. The grievance of the petitioner is that the 3rd respondent, on the strength of the order dated 05.12.2018 passed in W.P. No.19707 of 2018, has prevented the 2nd respondent from executing the earlier order of this Court passed in W.P. No. 16090 of 2017 to demolish the unauthorised portions and the compound wall of the petitioner is yet to be restored to its original position.

3. There is no representation on behalf of the petitioner and the contesting 3rd respondent.

4. This Court had already passed orders on 12.12.2017 in W.P.



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No. 16909 of 2017 and on 05.12.2018 in W.P. No. 19707 of 2018 with regard to the properties in question and the issue has attained finality. Since the grievance of the petitioner in the present writ petition appears to be that the portions of unauthorised construction put up by the 3rd respondent have not been demolished fully in consonance with the directions issued in W.P. No. 16909 of 2017 by order dated 12.12.2017 and the compound wall of his building has not been restored to its original position, the authority concerned shall cause an inspection of both the properties and ascertain whether there are still violations and in case, there are violations, the same shall be rectified by the 3rd respondent, more so, in the light of the order

S. VAIDYANATHAN,J.

AND

K. RAJASEKAR,J.

nv

dated 12.12.2017 passed in W.P. No. 16909 of 2017 and order dated 05.12.2018 in W.P. No. 19707 of 2018. The 3rd respondent shall be intimated about this order and ensure that this order is complied with in its



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letter and spirit.

WEB COPY 5. The writ petition is disposed of accordingly. No costs.

nv

(S.V.N.J.) (K.R.S.J.)
13.12.2023

To

1. The District Collector,
Nagapatinam District,
Nagapatinam.
2. The Commissioner,
Nagapatinam Municipality,
Nagapatinam.

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