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WP (MD) No. 8298 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

WP (MD) No. 8298 of 2016
and
WMP (MD) No. 6722 of 2016

R. Dinesh Kumar

Vs

... Petitioner

1. The Nagercoil Municipality,
Nagercoil,
Kanyakumari District,
PIN - 629001,
Represented by its Commissioner,

2. The Executive Authority,
Commissioner,
Nagercoil Municipality,
Nagercoil-1,
Kanyakumari District,
Pin 629 001.

3. Y. Gopi

4. S. Rani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the respondents 1 and 2 to prevent and stop the illegal construction of any building by respondents 3 and 4 in Survey No. D1/114 of Vadaseri village in the 1st respondent Municipality without applying for and getting approval of



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the site and permission to execute the work and restore the whole of the property to its original state, by taking actions, inter alia, under Section 216, 338 339 and 340 of the Tamil Nadu District Municipalities Act, 1920.

For Petitioner : Mr.K.N.Thambi
For Respondent : Mr.P.Athimoola Pandian
Nos.1 and 2
For Respondent : Mr.C.Christopher
Nos.3 & 4

ORDER

This writ petition is filed for a writ of mandamus directing the respondents 1 and 2 to prevent and stop the illegal construction of any building by respondents 3 and 4 in Survey No.D1/114 of Vadaseri village in the 1st respondent Municipality without applying for and getting approval of the site and permission to execute the work and restore the whole of the property to its original state.

2.The learned Counsel for the petitioner submits that the respondents 3 and 4 have attempted to put up some construction in the common pathway found in between the petitioner's land and the respondents 3 and 4, without



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obtaining any valid approval for the construction.

Therefore, the writ petitioner has approached the 1st and 2nd respondents to stop the construction work and submitted a representation dated 31.03.2016, but the same was not considered. Therefore, this writ petition is filed.

3.The learned Counsel appearing for the 1st respondent sought for a short accommodation to get written instructions. However on oral instruction he submits that notice was issued to the respondents 3 and 4 under Section 216 of the Tamil Nadu District Municipalities Act, 1920.

4.The learned Counsel appearing for the 3rd and 4th respondents submits that they have put up construction in the year 2016 and it is only a residential house and they are living in the said house. He also sought for a short accommodation for filing his Counter.

5.Heard the learned Counsel on either side and perused the materials placed on record.



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6.This writ petition was filed in the year 2016 and it was periodically adjourned for filing counter. However, so far no counter affidavit has been filed and not even written instructions have been received from the respondents.

7.Since it is claimed that the 1st respondent has issued notice under Section 216 of the Tamil Nadu District Municipalities Act, 1920, this writ petition is disposed of with a direction to the 1st respondent to take appropriate action in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

03.03.2023

Internet : Yes / No

dsk

To

- 1.The Commissioner,
The Nagercoil Municipality,
Nagercoil, Kanyakumari District,
PIN - 629001,
- 2.The Executive Authority,
Commissioner,
Nagercoil Municipality,
Nagercoil-1,
Kanyakumari District, Pin 629 001.

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B. PUGALENDHI, J.

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