



WP(MD)No.21744 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Thiruppathi Venkatachalapathi

.. Petitioner

v.

1.The Commissioner,
Kayalpattinam Municipality,
Kayalpattinam,
Tuticorin District.

2.Thangalakshmi

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to initiate action under Tamil Nadu District Municipality Act by removing the unlawful projections made by the second respondent into the property of the petitioner situated at 115-M, Visalatchi Ammal Kovil Street, Kayalpattinam, in S.No.76/2 and public street, in deviation of building



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permission given by the first respondent, by considering the representations of the petitioner dated 26.09.2017 and 03.10.2017.

For Petitioner : No appearance

For Respondents : Mr.V.Nirmal Kumar for R.1

Mr.G.Mohan Kumar for R.2

ORDER

The petitioner is a daily wager and is having an Asbestos Sheet House at Visalatchi Ammal Kovil Street, Kayalpattinam, in S.No.76/2. With an intention to put up a permanent structure, the petitioner has applied for building permission from the first respondent and raised a Wall on the southern side of his property. The second respondent and her husband raised objections that there are three sun-shades and that the petitioner is not supposed to disturb their sun-shades.

2. According to the petitioner, the sun-shades of the second respondent are protruded into his property and the second respondent, with her influence, is posing life threat to the petitioner. The petitioner has



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submitted a representation on 26.09.2017 & 03.10.2017 and filed this writ petition for a mandamus directing the first respondent to take appropriate action under the Tamil Nadu District Municipalities Act by removing the unlawful projections made by the second respondent inside the property of the petitioner at 115-M, Visalatchi Ammal Kovil Street, Kayalpattinam.

3.When the writ petition is taken up for hearing today, there is no representation for the petitioner.

4.Learned Counsel for the first respondent sought time to get instructions as to the action taken on the petitioner's representations.

5.Learned Counsel for the second respondent submitted that there is no protrusion of any constructions, as claimed by the petitioner and even otherwise, it can be decided only before the competent civil Court.

6.This Court considered the submissions and the materials placed on record.



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7.The petitioner is a daily coolie, who was having an Asbestos Sheet House. He attempted to convert his house as a pucca house. The petitioner claims that the second respondent has put up three sun-shades into the petitioner's property. In this regard, the petitioner has also submitted a representation to the first respondent.

8.In the event, if there is any deviation of building permission given to the second respondent, it is the responsibility of the first respondent to look into the same and to take appropriate action in accordance with law. However, they have failed to do so and therefore, the petitioner has filed this writ petition. Even after taking notice in this writ petition, the first respondent has not come forward with any reply as to the case of the petitioner.

9.Therefore, this writ petition stands allowed, with a direction to the first respondent to look into the petitioner's representation, conduct a survey, ascertain as to whether there is any protrusion on the petitioner's



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property. If any violation is found as against the approved building plan, the first respondent is to take appropriate action in accordance with law, after affording due opportunity of hearing to the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

26.02.2024

To

The Commissioner,
Kayalpattinam Municipality,
Kayalpattinam,
Tuticorin District.



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B.PUGALENDHI, J.

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