



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :08.07.2015

CORAM
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

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W.P (MD) .No.7254 of 2015
and
M.P. (MD) .No.1 of 2015

L.Muppidathi

... Petitioner

Vs

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The President,
Padmanery Panchayat,
Kalakkadu Panchayat Union,
Tirunelveli District.
3. The Tahsildar,
Nangunery, Tirunelveli District.
4. The Inspector of Police,
Kalakkadu Police Station,
Tirunelveli District.

... Respondents

This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order bearing Na.Ka.No.5683/2015 dated 13.04.2015 passed by the first respondent and quash the same and consequently direct the first respondent to grant plan approval and building permission for the building constructed by the petitioner bearing Door No.2/99D New No.159 in S.No.691/14 measuring an extent of 1200 sq.ft in Padmanery Village, Nangunery Taluk, Tirunelveli District.

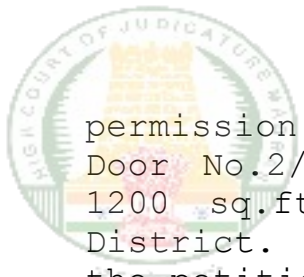
For petitioner : Mr.K.Samidurai

For respondents : Mr.S.Chandrasekar

Additional Government Pleader

ORDER

The prayer in this Writ Petition is for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order bearing Na.Ka.No.5683/2015 dated 13.04.2015 passed by the first respondent and quash the same and consequently direct the first respondent to grant plan approval and building



permission for the building constructed by the petitioner bearing Door No.2/99D New No.159 in S.No.691/14 measuring an extent of 1200 sq.ft in Padmanery Village, Nangunery Taluk, Tirunelveli District. By the said order, the building approval sought for the petitioner was negatived by the respondents herein.

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2. Notice was ordered on 29.04.2015 and no counter affidavit has been filed by the respondents.

3. The learned Counsel for the petitioner would submit that inspite of the fact that this Court in an earlier Writ Petition in W.P.(MD).No. 20782 of 2014 dated 18.12.2014, directed the respondents herein to provide due opportunity to the petitioner and others concerned, the present impugned order is passed without providing such opportunity of hearing. Hence, the order impugned is liable to be set aside.

4. Upon notice, the learned Counsel for the respondents would take me through the typed set of papers at Page No.35 to state that an opportunity was given to the petitioner herein.

5. Upon perusal of the Page No.35 of the typed set of papers, though there is a letter of the Assistant Director of Panchayat dated 15.12.2014 and a Writ Petition in W.P.(MD). No.20782 of 2014, there is no mention about an opportunity of hearing either in the order or in the reference column, as directed in the said Writ Petition. On this short ground, the order impugned in this Writ Petition is liable to be set aside. In addition to which, the impugned order is nothing but a non-speaking order.

6. In the light of the above, the impugned order stands set aside and the matter is remitted back to the authorities concerned to give an opportunity of hearing to the petitioner as well as the interested parties and pass fresh orders within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Register (AE)

/True Copy/

Sub Assistant Register



To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The President,
Padmanery Panchayat,
Kalakkadu Panchayat Union,
Tirunelveli District.
3. The Tahsildar,
Nangunery, Tirunelveli District.
4. The Inspector of Police,
Kalakkadu Police Station,
Tirunelveli District.

+1CC to Mr. K. Samidurai, ADV SR.No.37287
+1CC to Spl. Govt.Pleader SR.No.37966

W.P (MD) .No.7254 of 2015
08.07.2015

JMN - 24.07.2015 - 3P - 7C