



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.15637 of 2016

and

W.M.P(MD)No.11493 and 11494 of 2016

M.Alaguraja

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by
The Principal Secretary to the Government,
Department of Municipal Administration and Water Supply,
Secretariat, Chennai - 9.
- 2.The Secretary to the Government,
Housing and Urban Development Department,
Secretariat, Chennai - 9.
- 3.The Member Secretary/The Commissioner,
Kodaikanal Local Planning Authority,
Kodaikanal Municipality.
- 4.Kodaikanal Municipality,
represented by its
Commissioner, Kodaikanal,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus to call for the records pertaining to the impugned order in Ka.Ma.No.19/2011/F.1, dated 13.06.2016 on the file of the third respondent and quash the same as illegal and consequently, direct the third respondent to grant permission to the petitioner to complete the construction work in T.S.No.91B, Block No.20, Ward D, to an extent of 236.60 sq. meters in Survey No.399/C5A, Sreenivasapuram, Kodaikanal Town, Dindigul District, pending final determination of the appeal filed by the petitioner dated 24.06.2016, with the second respondent under Section 80-A of the Tamil Nadu Town and Country Planning



WEB COPY

For Petitioner
For Respondents

: Mr.T.Lajapathi Roy
: Mr.C.Selvaraj,
Special Government Pleader
for R.1 and R.2
Mr.T.S.Mohammed Mohideen
Additional Government Pleader
for R.3 and R.4

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This writ petition is filed calling in question the correctness of the orders passed on 13.06.2016 by the third respondent, who is the Member Secretary cum Commissioner, Kodaikanal Local Planning Authority, Kodaikanal Municipality, declining to grant permission to the writ petitioner to complete the construction work in T.S.No.91B, Block No.20, Ward D, to an extent of 236.60 sq. meters lying in Survey No.399/C5A, Sreenivasapuram, Kodaikanal Town, Dindigul District, pending final determination of the appeal preferred by the writ petitioner on 24.06.2016 before the State Government.

2. In fact, entertaining similar request, we have passed an interim order on 16.06.2016 in W.P(MD)No.10668 of 2016, the operative portion of which, reads as under:

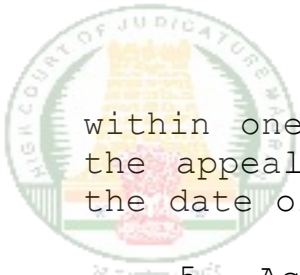
"In the meantime, the appeal said to have been preferred by the writ petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, dated 15.04.2016 may be disposed of by providing an opportunity of hearing to the petitioner.

However, the petitioner shall not use the building in question for commercial purposes and he may use it for domestic use alone.

Subject to the above condition, the proposed threatened action of sealing the building is stayed. One week time is granted for the petitioner to furnish necessary undertaking before the Commissioner, Kodaikanal Municipality."

3. The learned Counsel appearing on all sides agreed that with the above order, the writ petition itself can be disposed of.

4. Accordingly, let there be a similar order in this writ petition also. All we need to add is that till such time, the appeal is decided by the State Government and unless the decision of the State Government goes in favour of the writ petitioner, the writ petitioner shall not make any further construction including by way of additions as well. The writ petitioner shall take all its four sides and deposit one such set of photographs with the Commissioner, Kodaikanal Municipality and also furnish one such set of photographs to the State Government,



within one week from today. The State Government may dispose of the appeal filed by the writ petitioner within eight weeks from the date of receipt of a copy of this order.

5. Accordingly, this writ petition stands disposed of as above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Principal Secretary to the Government,
State of Tamil Nadu,
Department of Municipal Administration and Water Supply,
Secretariat,
Chennai - 9.

2.The Secretary to the Government,
Housing and Urban Development Department,
Secretariat,
Chennai - 9.

3.The Member Secretary/The Commissioner,
Kodaikanal Local Planning Authority,
Kodaikanal Municipality.

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 47605

+1cc to M/S.LAJAPATHI ROY, ADVOCATE SR NO:47356

+1cc to M/S.T.S.MOHAMED MOHIEEN, ADVOCATE, SR NO: 47352

RSB

JA-GSV-PM-2.09.2016/3P:7C

W.P (MD) No.15637 of 2016
and

W.M.P (MD) No.11493 and 11494 of 2016
24.08.2016