



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.09.2016
CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MS. JUSTICE V.M. VELUMANI

W.P. (MD) No. 16826 of 2016
and
W.M.P. (MD) Nos. 12202 & 12203 of 2016

S. Manonmani ... Petitioner
Vs.

1. The District Collector,
Dindigul District,
Dindigul.

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

3. The Commissioner,
Kodaikanal Municipality,
Kodaikanal, Dindigul District.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.4019/1999/F.1, dated Nil.03.2016 and signed dated 30.03.2016 on the file of the Respondent No.2 and quash the same as illegal and consequently directing the Respondent No.3 to Grant modified Building permit for the petitioner's properties in Ward B, Old Block 28, New Block 29, Old T.S.No.7, New R.S / T.S No.18, in Door No.195/5, Lake Road, Jimkana Lower Shola Road, Kodaikanal, Dindigul District, within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent-1 : Mr.V.R.Shanmuganathan
Special Govt.Pleader

For Respondents : Mr.Dinesh Babu
(R2 and R3)

ORDER

(Order of this Court was made by M.SATHYANARAYANAN, J.)

WEB COPY

By consent, the Writ Petition itself is taken up for final disposal.

2. The Petitioner would state that her husband Late J.Santhosam had purchased the properties in Ward B, Old Block 28, New Block 29, Old T.S.No.7, New R.S / T.S.No.18, admeasuring to an extent of 5.15 cents of vacant land through a registered Sale Deed No.554/1999, dated 7.5.1999, registered on the file of the Office of Sub-Registrar, Kodaikanal. Thereafter, she put up a super structure and also it is subjected to statutory liability. The Petitioner further stated that after the demise of her husband on 27.02.2001, she continues to reside in the property and paying property tax etc., To her shock and surprise, the second respondent has passed the impugned order, dated 30.03.2016, under Section 85 r/w. Sections 56&57 of the Tamil Nadu Town and Country Planning Act, 1971, (amended Act 61 of 2008) calling upon the petitioner to remove the offending construction within a period of 30 days from the date of receipt of notice, failing which, the concerned official will take action and recover the articles. The petitioner challenging the legality of the said order came forward to file this Writ Petition.

3. The learned counsel for the petitioner would submit that the petitioner at present is running a cottage and it is a sole source of her livelihood and since the second respondent without following the due process of law, all of a sudden, has issued the impugned notice, she is constrained to move this Court. The learned counsel also inviting the attention of this Court to Section 56(3) as well as Section 80(A) of the said Act and prays for liberty to work out her remedy in accordance with the said provisions.

4. This Court heard the submission of Mr.V.R.Shanmuganathan, learned Special Government Pleader for the first respondent and Mr.Dinesh Babu, learned standing counsel for the respondent 2 & 3, who accepts notice for R2 to R3.

5. This Court in the light of the limited prayer sought for by the learned counsel appearing for the petitioner and without going into the merits of the claim projected by the petitioner in this Writ Petition, is of the view that the petitioner is at liberty to work out her remedy either under Section 56(3) or under Section 80(A) of the Tamil Nadu Town and Country Planning Act,



1971. The Writ Petition is disposed of accordingly. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

WEB COPY

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Member Secretary / Commissioner,
Kodaikanal Municipality / Kodaikanal Local
Planning Authority,
Kodaikanal.
- 3.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

+One cc to The Special Government Pleader, SR.No.50922

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.50583

mpk
RL/6C/3P/AAL/MPA/6.10.2016

W.P. (MD) No.16826 of 2016

06.09.2016