



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated: 21.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. [MD].No.19174 of 2016

and

W.M.P. (MD) .No.13845 of 2016

N.Krishnamoorthy .. Petitioner

Vs.

The Member Secretary,
Pudukkottai Composite Local Planning
Authority and Deputy Director,
Town Planning,
Sivagangai Region,
Sivagangai.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the proceedings of the respondent made in Na.Ka.No.2190/2014/cma-3, dated 14.09.2016 and quash the same.

For Petitioner : Mr.R.Murali,
for Mr.K.Govindarajan

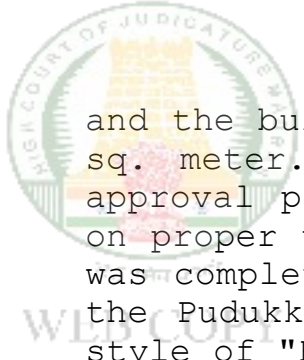
For Respondents : Mr.M.Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by **M.V.MURALIDARAN.J.**]

The petitioner has come up with this Writ Petition challenging the proceedings of the respondent made in Na.Ka.No.2190/2014/cma-3, dated 14.09.2016, wherein the petitioner was directed to produce plan approval in respect of his building in T.S.No.8509 within a period of three days for verification.

2.The case of the petitioner is that he is the owner of the property comprised in T.S.No.8509, Pudukkottai Town, Pudukkottai District, having extent of 12940 sq. ft. He had constructed the ground floor and four floors building with the approval of the respondent in the year 2000. The planning approval was granted in approval No.549/2000. The building License in License No.543/2000



and the building was constructed in or above to the extent of 1197 sq. meter. He also stated that the respondent himself granted approval plan in the year 2000, after receiving necessary charges on proper verification of documents. Admittedly, the construction was completed in the year 2003 by obtaining building license from the Pudukkottai Municipality and running a hotel in the name and style of "Hotel Satyam" from the year 2004 onwards.

3.The petitioner further states that with the proper plan approval, the building was constructed after obtaining necessary statutory certificates namely, sanitary certificate, stability certificate and fire service certificate and running the hotel for the past 10 years. The petitioner also states that the Thasildar, Pudukkottai Taluk also granted license under Tamil Nadu Public Building (Licensing) Act, 1965 on 04.03.2016 under license No.11/2006 for the period of three years and the same was valid up to 21.01.2009. The fire service license also issued by the competent authority on 31.12.2015, the same is in force. The petitioner further states that the Pudukkottai Municipality issued sanitary certificate in terms of District Municipality Act and Tamil Nadu Public Health Act on 29.02.2016. The petitioner also states that the property was also assessed by the Pudukkottai Municipality by collecting property tax and water tax under Assessment No.109/036/00332 and the petitioner is running the hotel with proper license for the past 10 years without any violation.

4.The petitioner further states that the respondent has issued the present impugned order dated 14.09.2016 and signed on 19.09.2016 wherein it was stated that the direction was issued to the petitioner to produce the approval plan if any in respect of the hotel building within a period of 3 days and the notice is also stated that if any documents not produced, the building will be locked and sealed. The notice was issued in terms of Section 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act 1971. The petitioner also states that the respondent relying Section 47A of Town and Country Planning Act, in the impugned order, which is came into force only in the year 2010 by way of Amendment. When the petitioner produced the plan approval copies before the respondent in person and inspite of the same, the respondent has attempting to take coercive steps in the nature of lock and seal. The petitioner also come forward by saying that the petitioner's hotel is functioning for the past 10 years with 2 star category with capacity of accommodating 200 persons and several employees were working in the hotel. The respondent has made coercive attempt to the petitioner's hotel without any proper notice to the petitioner. Challenging the same, the present writ petition has been filed by the petitioner.



5. We heard Mr.R.Murali for Mr.K.Govindarajan, learned counsel appearing for the petitioner and Mr.M.Govindan, learned Special Government Pleader appearing for the respondent.

6. Counter affidavit has been filed by the respondent stating that though if the petitioner has obtained certificate of approved plan, he should bring before them, but the petitioner has not produced any certificate before the respondent.

7. The learned counsel appearing for the respondent submit that against the notice issued under Sections 56 and 57 of Tamil Nadu Town and Country Planning Act, 1971, there is a revision proceedings under Section 80(a) of the Tamil Nadu Town and Country Planning Act, 1971 before the authority concerned, without exhausting the revision, the writ petition has been filed.

8. The petitioner also states that he has also filed a revised plan before the respondent, but the same is pending without considering the same.

9. Considering the arguments of both sides, we direct the petitioner to submit the revision under Section 80(a) within a period of one week from the date of receipt of a copy of this order and the respondent is directed to consider the same within a period of three months from the date of receipt of the Revision along with the revised plan. Till such time, the impugned order shall be kept in abeyance.

10. This writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writ)

/True Copy/

Sub Assistant Registrar

vsa

To

The Member Secretary,

Pudukkottai Composite Local Planning

Authority and Deputy Director,

Town Planning, Sivagangai Region, Sivagangai

+1cc to Spl. Government Pleader Sr.No. 71140

JAM/23.12.16/MPA/3p-3c

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