



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].No.20813 of 2016

and

W.M.P. (MD)No.14862 of 2016

S.Shanmuganathan

: Petitioner

Vs.

1.The Secretary to Government,
Housing & Rural Development Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2.The Member Secretary (Incharge),
Kumbakonam Local Planning Authority,
Kumbakonam,
Thanjavur District.

: Respondents

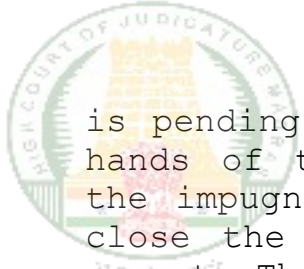
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ka.No.407/2015KLPA, dated 18.10.2016, quash the same and consequently, forbear the second respondent herein from in any way interfering with the petitioner's peaceful possession, enjoyment and occupation of the premises comprised in Town S.No.328/4,5,6,7,8 Ayeekulam Road, Kumbakonam, Thanjavur District.

For Petitioner : Mr.Veera.Kathiravan,
Senior Counsel,
For M/s.Veera Associates
For Respondents : Mr.S.Chandrasekar,
Government Advocate

O R D E R

[Order of the Court was made by S.NAGAMUTHU, J.]

The petitioner is the owner of the building in Survey No.328/4,5,6,7 and 8, at Kumbakonam, Thanjavur District. He has constructed two storeyed building. According to the second respondent, there is the plan approval only for the ground floor and the first floor and there was no approval given for the second floor at all. Even, according to the second respondent, the second floor was constructed by the petitioner without any approval. As against the earlier order made by the second respondent, the petitioner has made an appeal to the first respondent and appeal



is pending. When the appeal is so pending without disposal at the hands of the first respondent, the second respondent has issued the impugned order dated 18.10.2016, in Na.Ka.No.407/2015KLPA, to close the second floor of the building, within one week and to report. The said order is under challenge in this Writ Petition.

2. This Writ Petition has come up today for admission. We have heard Mr.Veera.Kathiravan, learned Senior Counsel appearing for the petitioner and Mr.S.Chandrasekar, learned Government Advocate, taking notice on behalf of the respondents. We have also perused the records carefully.

3. The learned Senior Counsel appearing for the petitioner would submit that when the appeal filed by the petitioner is pending before the first respondent as against the earlier order of similar nature, it is not appropriate for the second respondent to issue the impugned order and to direct the petitioner to close the second floor.

4. When we pose a query to the learned Government Advocate appearing for the respondents, as to why appeal has not been disposed of by the first respondent, he submitted that in regular basis, all the appeals filed similarly are disposed of and to dispose of the appeal filed by the petitioner, it may take sometime.

5. Having regard to the said submission made, we dispose of this Writ Petition with a direction to the first respondent to pass final order on the appeal filed by the petitioner, within a period of two months from the date of receipt of a copy of this order and we further direct that until final order is passed, the second respondent shall not enforce the impugned order and he shall only keep the same in abeyance. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Housing& Rural Development Department,
Government of Tamil Nadu,
Fort St. George,Chennai-600 009.

2.The Member Secretary (Incharge),
Kumbakonam Local Planning Authority,
Kumbakonam, Thanjavur District.

+1cc to M/s.Veera Associates, SR.No.63641/16

sml

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