



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P (MD) No.23827 of 2016
and
W.M.P (MD) Nos.17182 to 17184 of 2016

A.Manickavel

.. Petitioner

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Member Secretary,
Tuticorin Local Planning Authority,
51, West Car Street,
Tuticorin.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for records relating to the impugned proceedings of the second respondent in Na.Ka.No.429/2016முடிபு, dated 21.06.2016 and the impugned proceedings in Na.Ka.No.429/2016முடிபு, dated 08.11.2016 and quash the same as illegal and consequently forbear the respondents from taking any coercive action against the petitioner's building in Survey No.4257/59/2 and 4258/26/1, Block No.35, Ward No.4, Tuticorin, pending disposal of the retention application preferred by the petitioner dated 28.11.2016 under Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for Mr.M.Mahaboob Athiff
for M/s.Ajmal Associates.

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



[Order of the Court was made by **A.SELVAM, J.**]

This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the notices issued by the second respondent in Na.Ka.No.429/2016துடிதுடி, dated 21.06.2016 and Na.Ka.No.429/2016துடிதுடி, dated 08.11.2016 and quash the same and consequently restraining the respondents from taking any coercive action against the petitioner's building which situates in Survey Nos.4257/59/2 and 4258/26/1, Block No.35, Ward No.4, Tuticorin, by way of issuing a writ of certiorarified mandamus.

2.It is averred in the petition that the petitioner has put up a building in the survey numbers mentioned in the petition and its Door No.26/1. The second respondent has issued notices mentioned in the petition and thereby directed the petitioner to offer his explanation within a period of three days, which is against the mandatory provision of Section 56 of the Tamil Nadu Town and Country Planning Act, 1971. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.It is an admitted fact that in the impugned notices it has been specifically mentioned that the petitioner should offer his explanation within a period of three days from the date of receipt of the same.

4.The learned senior counsel appearing for the petitioner has drawn the attention of the Court to the provision of Section 56 of the Tamil Nadu Town and Country Planning Act, 1971, wherein it has been clinchingly stated that at-least thirty days notice is very much essential. Therefore, it is quite clear that the impugned notices have been given totally in contravention of the period mentioned in Section 56 of the said Act and on that ground alone, the notices mentioned in the petition are liable to be quashed.

5.In fine, this writ petition is allowed without costs and the notices dated 21.06.2016 and 08.11.2016 passed in Na.Ka.No.429/2016துடிதுடி and Na.Ka.No.429/2016துடிதுடி by the second respondent are quashed. However the second respondent is at liberty to issue a fresh notice to the petitioner as contemplated under law and take appropriate action. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

/True Copy/



smn

To

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Member Secretary,
Tuticorin Local Planning Authority,
51, West Car Street,
Tuticorin.

+1CC to Spl.Government Pleader Sr.No.83195

+1CC to M/S.Ajmal Associates Advocate Sr.No.82620

GJM/SS2/KSM/12.1.17-3p-5C

ORDER MADE IN
W.P(MD)No.23827 of 2016
and
W.M.P(MD)Nos.17182 to 17184 of 2016
21.12.2016