

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.02.2017**

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

**W.P.No.18818 of 2003
& WMP No.23540 of 2003**

M/s.Hill Country Holiday Resorts India Ltd.,
Rep.by its Managing Director
No.9, Jaganathan Road
Nungambakkam
Chennai 600 034

.. Petitioner

Vs.

1. The Government of Tamil Nadu
rep.by its Secretary
Housing & Urban Development Department
Fort St.George
Chennai 600 009
2. The Joint Director of Town and Country Planning
Madurai Region
Plot No.15
Madurai 625 020
3. The District Collector
Dindigul District
4. The Commissioner
Kodaikanal Panchayat Union
Kodaikanal
5. The Block Development Officer (KU)
Kodaikanal
6. The President
Villipatti Panchayat (I Grade)
Kodaikanal Taluk
Dindigul District

7. Hill Area Conservation Authority
 rep.by its Chairman
 & Secretary to Government of Tamil Nadu
 Housing & Urban Development Department
 Fort St.George
 Chennai 600 009

.. Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 6th respondent in K.No.2002-03 dated 19.6.2003, quash the same and consequently direct the 1st respondent to consider the appeal petition dated 17.4.1999, reminder dated 26.7.1999 and consequently regularise the construction put up by the petitioner in R.S.No.1008/3 Part, and 1008/5 Part, Villipatti Village, Kodaikanal Taluk, by taking note of the report of the 3rd respondent in Proceedings ROC No.3034/97 MR 4 dated 14.7.1998.

For Petitioner	..	Mrs.R.Gouri
For Respondents	..	Mr.V.Jayaprakash Narayanan
		Special Government Pleader

ORDER

The petitioner company is into the business of building holiday resorts in tourist spots including hill stations.

2. It appears that the petitioner company submitted an application for construction of a holiday resort in Villipatti Village in Kodaikanal, which is a hill station, to the Panchayat Union on 19.3.1993. Construction of such resorts in a hill station will fall within the purview of Chapter X-A of the Tamil Nadu District

Municipalities Act, wherein a special procedure has been envisaged, under which their application seeking permission will be placed before a special committee called "AAA" Committee (Architectural, aesthetics aspects). When the proposed construction is beyond 300 Sq.mtrs, the application would have to be further approved by another committee called Hill Area Conservation Authority (HACA). In the present case, since the construction was over 300 Sq.mtrs., the application of the petitioner company was referred by the AAA Committee with their positive recommendations to HACA sometime in July 1998. HACA appears to have rejected the application orally on 26.3.1999, based on which the Village Panchayat President had issued the impugned notice dated 19.6.2003 to the petitioner to demolish the constructions that were made, pending approval. Challenging the impugned notice, the petitioner has filed the present writ petition and obtained an order of status quo on 8.7.2003.

3. During the pendency of this writ petition, much water appears to have flown under the bridge, inasmuch as HACA has reconsidered the application of the petitioner company on its 37th Meeting held on 24.8.2009, following which the Director of Town and Country Planning has sent a communication dated 17.9.2009 to the petitioner, wherein it is stated as follows:

"HACA discussed the issue in detail and decided to re-examine the subject after setting clearance/remarks from all the departments. The Chairman, HACA instructed the line departments to give the

remarks or NOC within reasonable time not exceeding 30 days."

4. On the directions of this Court, Mrs.M.Vijaya, Supervisor, Directorate of Town and Country Planning, Mr.S.Annadurai, Architectural Assistant/Planning Assistant, Directorate of Town & Country Planning, Mr.Senthil, Assistant Section Officer, Housing and Urban Development Department, Secretariat, Chennai are present along with the relevant files.

5. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, on instructions from the officials, submitted that no orders have been passed by HACA yet.

6.Mrs.Gouri, learned counsel appearing for the petitioner submitted that pursuant to the decision taken by HACA on 24.8.2009, calling for remarks/no objection from other departments, all the other departments have given their no objection certificates and the same has been submitted to HACA.

7. In view of these developments, this Court is of the view that the impugned order dated 19.6.2003 requires to be set aside and a further direction should be issued to the authorities to dispose of the petitioner's application within a reasonable time.

8. In the result, this Writ Petition is allowed and the impugned order dated 19.6.2003 is quashed. A further direction is given to the Director of Town and

Country Planning, NO.807, Anna Salai, Chennai to place the application and other papers submitted by the petitioner, including the No Objection Certificates received from the other departments, before HACA, within three months from the date of receipt of a copy of this order. Thereafter, six months time is given to the 7th respondent (HACA) to pass appropriate orders in accordance with law, on the application of the petitioner company. No costs. Consequently, the connected Miscellaneous Petition is closed.

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