



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : **19.07.2017**

ORDERS PRONOUNCED ON : **31.07.2017**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.1665 of 2017

and

W.M.P. (MD) .No.1366 of 2017

K.Shanmugasundaram,

.. Petitioner

Vs.

1.The Director,

City Town Planning Authority,

807, Anna Salai,

Chennai - 02.

2.The District Collector,

Madurai District,

Madurai.

3.The Commissioner,

Madurai Corporation,

Madurai.

4.The Executive Member (incharge)

Madurai Town Planning Authority,

Madurai.

5.Harihara Sudhan,

Proprietor of Gowry Krishna Hotel,

Gowry Krishna Hotel,

Byepass Road,

Opp.Tamil Nadu Transport Corporation Ltd,

Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 3 and 4 to complete the proceeding by way of taking suitable action against the fifth respondent by virtue of proceedings in Na.Ka.No.1046/2016/2016/Mathi 5, dated 24.08.2016 under the provision of Tamilnadu Town Planning Act, 1971.

For petitioner

:Mr.M.Ramu

For respondents 1, 2 and 4

:Mr.M.Govindan,

Special Government Pleader

:Mr.K.Rajaprabhakar for

Mr.J.Gunaseelan Muthiah



For respondent 5

:Mr.M.Ajmal Khan, Senior Counsel,
for Mr.S.Manoharan

O R D E R

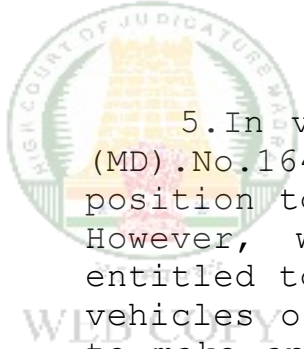
WEB COPY [Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The Writ Petitioner is aggrieved by the alleged illegal construction of a hotel building known as "Gowri Krishna Hotel" in Town survey No. 226/3B2 and 226 /5B1 in Ward No.76 By-pass Road, Madurai City. He had submitted representations to the authorities for taking necessary action. According the Writ Petitioner, the authorities conducted inspection and found major violations in the construction. But no consequential action has been taken. Therefore, he was constrained to file the present Writ Petition.

2.Heard the leaned counsel appearing for the Writ Petitioner as well as the learned counsel appearing for the official respondents and also Mr.Ajmal Khan, learned senior counsel appearing for the fifth respondent.

3.The learned counsel for the Writ Petitioner would vehemently contend that the said hotel has been put up virtually abutting the Highways. He also expressed his grave concern with regard to the deviation committed by the fifth respondent while putting up the building. On the other hand, the learned senior counsel appearing for the fifth respondent pointed out that this Writ Petition has been filed to settle certain private scores. One advocate Mr.Karmegam had put up construction right outside the hotel and that same was caused to be removed at the instance of the fifth respondent. Aggrieved over the same, the said Karmegam had virtually run his car into the hotel building gravely endangering the physical safety of the hotel employees and customers who were in the hotel then. According to the learned senior counsel the said Karmegam had set up the present writ petitioner and filed this Writ Petition to vex and harass the fifth respondent. However, the learned senior counsel would fairly concede that there are certain issues regarding the violations and that therefore they have filed a revised plan. Our attention was drawn to the order dated 09.11.2016 made in W.P.(MD).No.16406 of 2016, filed by the said Karmegam. In the said writ petition, this Court had directed the Town Planning Authority to consider the revised plan submitted by the fifth respondent herein.

4.The official respondents were restrained from initiating any coercive measures till final orders are passed by the Town Planning Authority. Aggrieved by the said order dated 09.11.2016 in W.P.(MD).No.16406 of 2016, the said Karmegam filed <https://hcscres.nic.in/cases> 2017 before the Hon'ble Supreme Court of India but the same was dismissed on 13.01.2017.



5. In view of the said earlier order dated 09.11.2016 in W.P. (MD).No.16406 of 2014, passed by this Court, we are not in a position to issue the directions sought for in this writ Petition. However, we make it clear that the fifth respondent is not entitled to use the public road space for parking either the hotel vehicles or that of the customers. It is for the fifth respondent to make appropriate parking arrangements. As already pointed out, the fifth respondent has submitted his revised application and he will have to abide by the outcome of the final order passed by the Town Planning Authorities.

6. In the Writ Proceedings, Mr.T.Kanagaraj was appointed as Advocate Commissioner. He had inspected the premises in question and also submitted his report. He had also filed an expenses memo. It is seen that he had incurred an expense of Rs. 6,200/-. We direct the fifth respondent to pay a sum of Rs. 10,000/- towards expenses and remuneration of the Advocate Commissioner.

7. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Co)

/ True Copy /

Sub Assistant Registrar(C.S.)

To:

1. The District Collector,
Madurai District,
Madurai.
2. The Commissioner,
Madurai Corporation,
Madurai.
3. The Executive Member (incharge)
Madurai Town Planning Authority,
Madurai.

+1cc to M/S.M.RAMU, Advocate SR.No.68798
+1cc to M/S.M.S.SURESH KUMAR, Advocate SR.No.68785
+1cc to M/S.J.GUNASEELAN MUTHIAH, Advocate SR.No.68782

Arul/dsk
MAS/RSK/SAR1:07.08.2017:3P-7C

ORDER MADE IN
W.P. (MD) No.1665 of 2017
and
W.M.P. (MD) .No.1366 of 2017
31.07.2017