



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE **M.VENUGOPAL**
AND
THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. [MD].No.18547 of 2017
and
W.M.P (MD) .No.14947 of 2017

Dr.A.Najeerul Ameen : Petitioner
Vs.

1. The Commissioner of Planning,
807, Anna Salai,
Chennai-2.

2. The Commissioner,
Madurai Corporation,
Madurai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to consider and pass orders on the revised plan and appeal submitted by the petitioner on 05.09.2017 within the time that may be stipulated by this Court and consequently, direct the second respondent to unlock and unseal the petitioner's premises, which was sealed in furtherance of the proceedings of the second respondent in M4/mathi4/9125/2016, dated 13.09.2017 till the final determination on the revised plan.

For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel,
For M/s.Ajmal Associates
For Respondent No.1 : Mr.M.Govindan,
Special Government Pleader
For Respondent No.2 : Mr.R.Prabhu Ramachandran

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

Mr.M.Govindan, learned Special Government Pleader, takes notice for the first Respondent. Mr.R.Prabhu Ramachandran, learned Standing Counsel, takes notice for the second Respondent.



2. Heard both sides. No counter-affidavit is filed on behalf of the Respondents 1 and 2.

3. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.

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4. According to the Petitioner, he is a resident of Chennai and a native of Madurai. It is the categorical stand of the Petitioner that an extent of 863 Square Feet of land in T.S.Nos.48 and 49, North Veli Street, Ward No.82, Madurai, belongs to him. The said property was purchased by him for a valuable consideration by means of a registered sale deed dated 04.07.2014. From the date of purchase of the property in question, he is in possession and enjoyment of the property till date.

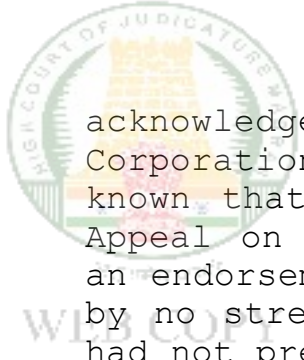
5. It transpires that the Petitioner intended to develop the said property and pursuant to that, had applied for planning permission from the second Respondent/Commissioner, Madurai Corporation in the year 2015 as per Section 272 of the Madurai City Municipal Corporation Act, 1971 and further that the second Respondent accorded planning permission as per Section 276 of the Madurai City Municipal Corporation Act, 1971 (vide Planning Permission No.557/2015).

6. The Petitioner, after obtaining the planning permission, had constructed a building, which is used as an Educational Centre of the Russian Universities in the said premises. But, to his shock and dismay, a notice was served on him on 08.09.2017 stating *inter alia* that the development effected by him is in deviation of the planning permission granted and that he has to rectify the same within a period of seven days, failing which, action would be initiated for demolishing the building. In this connection, a stand is taken on behalf of the Petitioner that even prior to the issuance of the said notice, he had preferred an Appeal together with a revised plan before the first Respondent through the second Respondent on 05.09.2017 itself and the same is pending for disposal. Furthermore, on receipt of the said notice on 13.09.2017, he preferred a representation stating that he had already filed an Appeal with a revised plan before the first Respondent and the same is pending as on date and, therefore, no coercive action be taken in this regard.

7. At this juncture, this Court has perused the contents of the letter dated 05.09.2017 addressed to the Special Commissioner, Town and Country Planning, Chennai-2, by the Petitioner, praying for building plan to be considered by the authorities concerned and to grant exemption from the relevant Rules. In short, the Petitioner in the said communication dated 05.09.2017 had ~~mentioned~~ ^{stated} that he had submitted a revised plan, etc.

<https://hccourtsonline.in/cases/>

8. As a matter of fact, the Petitioner had filed the



acknowledgement card addressed to the Commissioner, Madurai Corporation Office, Tallakulam, Madurai. Also that, it comes to be known that the first Respondent had acknowledged the receipt of Appeal on 15.09.2017 (through hand delivery). In short, there is an endorsement to the following effect: "Tapal Received". As such, by no stretch of imagination, it can be said that the Petitioner had not preferred an Appeal before the first Respondent.

9. In view of the crystalline fact that the Petitioner has preferred an Appeal on 05.09.2017 before the first Respondent, this Court deems it fit and proper, based on equity, fairplay, good conscience and even as a matter of prudence, directs the first Respondent/Commissioner of Town and Country Planning, Chennai-2, to take up the Appeal preferred by the Petitioner preferably, within a period of one week from the date of receipt of copy of this order. Thereafter, the first Respondent shall provide necessary opportunity to the Petitioner and others concerned, if any and to dispose of the Appeal dated 05.09.2017 of the Petitioner, by passing a reasoned speaking order on merits, by adhering to the principles of natural justice. The said order is to be passed in the Appeal within a period of four weeks thereafter. It cannot be said that the order to be passed in the Appeal by the first Respondent is to be passed in a fair, just, free, unbiased and dispassionate manner by adverting to all the pleas or all the facts raised by the Petitioner in the Appeal grounds and to dispose of the same by meeting out the same in accordance with law. Soon after disposal of the said Appeal, the first Respondent is directed to send a compliance report to the Registrar (Judicial) of this Court by addressing a suitable communication. Till the Appeal is disposed of, the second Respondent shall not take any coercive or any other steps, pursuant to the notice dated 13.09.2017 issued to the Petitioner.

10. With the above said observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1.The Commissioner of Planning,
807, Anna Salai,
Chennai-2.

<https://hcservices.com/miservices/>
The Commissioner,
Madurai Corporation,
Madurai.



3. The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

[For favour of information and necessary action]

+ 1 cc TO M/S.Ajmal Associates, Advocate in SR No. 81762
+ 1 cc TO Mr.R.Prabhu Ramachandran , Advocate in SR No. 81617
+1cc to the Special Government Pleaded in SR.No.81797

SML

AE/KP/SAR2/24.10.2017/4P/7C

**Order made in
W.P. [MD].No.18547 of 2017**

**Dated:
05.10.2017**