



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **03.03.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **A.SELVAM**

and

THE HONOURABLE MR.JUSTICE **P.KALAIYARASAN**

W.P(MD)Nos.1880 & 3180 of 2017

and

W.M.P(MD)Nos.1544, 1545, 2528 & 2529 of 2017

1.W.P(MD)No.1880 of 2017:-

M/s.Sea Port Logistics (P) Limited,
Rep. By its Director,
T.Mohamed Kaizer

.. Petitioner

Vs.

1.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

2.The Member Secretary,
Thoothukudi Local Planning Authority,
51, West car street,
Thoothukudi.

.. 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 the records relating to the impugned proceedings of the second respondent in NA.KA.No.53/2017 துறைமுகம் dated 12.01.2017 and quash the same as illegal and consequently forbear the respondents from taking any coercive action in Survey No.273/1, 274, 275/1 & 276 at Harbour Construction Road, Mullankadu, Thoothukudi belonging to the petitioner and pass such further or other orders.

For Petitioner

: Mr.J.M.Abdul Rahman

For R - 1

: Mr.S.Saji Bino

For R - 2

: Mr.M.Govindan,
Special Government Pleader



2.W.P (MD) No.3180 of 2017:-

M/s.Sea Port Logistics (P) Limited,
Rep. By its Director,
T.Mohamed Kaizer

.. Petitioner

Vs.

1.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

2.The Member Secretary,
Thoothukudi Local Planning Authority,
51, West car street,
Thoothukudi.

.. 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 the records relating to the impugned proceedings of the second respondent in Form-II in NA.KA.No.53/2017 தூத்துக்குடி, dated 07.02.2017 and quash the same as illegal and consequently forbear the respondents 1 and 2 from taking any coercive action of locking and sealing and demolition in Door No.6/119-11, Survey No.273/1, 274, 275/1 & 276 at Harbour Construction Road, Mullankadu, Thoothukudi City belonging to the petitioner and pass such further or other orders.

For Petitioner : Mr.J.M.Abdul Rahman

For R - 1 : Mr.S.Saji Bino

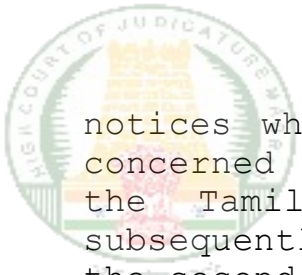
For R - 2 : Mr.M.Govindan,
Special Government Pleader

COMMON ORDER

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

These writ petitions have been filed under Article 226 of the Constitution of India praying to call for records relating to the orders dated 12.01.2017 and 07.02.2017 passed by the second respondent in Na.Ka.No.53/2017 and quash the same by way of issuing a writ of certiorarified mandamus.

2.The learned counsel appearing for the petitioner in both the petitions has sparingly contended to the effect that the site on which the concerned building has been put up comes within the jurisdiction of the Thoothukudi Municipal Corporation. Under the said circumstances, the petitioner has obtained necessary permission for putting up construction. But the second respondent has issued the impugned



notices whereby it is stated that the petitioner has put up the concerned building without getting approval or permission under the Tamil Nadu Town and Country Planning Act, 1971 and subsequently a proper plan and also requisition have been given to the second respondent for getting necessary approval.

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3.The learned Special Government Pleader appearing for the second respondent has contended to the effect that since the petitioner has not obtained necessary permission/approval under the Tamil Nadu Town and Country Planning Act, 1971, the impugned notices have been issued and therefore the relief sought in both the petitions cannot be granted.

4.It is an admitted fact that the petitioner has obtained necessary permission/approval for putting up construction from the concerned Village President.

5.The main contention putforth on the side of the respondents is that since the petitioner has put up a commercial building, he has to obtain necessary permission as per the relevant provision of the Tamil Nadu Town and Country Planning Act, 1971.

6.It is also seen from the records that during pendency of these petitions, the petitioner has approached the second respondent by way of giving a separate requisition annexed with plan.

7.Considering the subsequent events and also considering the fact that due to ignorance, the petitioner has obtained permission from the Village Panchayat, this Court is of the view to quash the notices issued by the second respondent.

8.In fine, these Writ Petitions are allowed without costs. The notices, dated 12.01.2017 and 07.02.2017 passed in Na.Ka.No.53/2017 2017 by the second respondent are quashed. However, the second respondent is directed to look into the requisition and also plan alleged to have been submitted by the petitioner and pass necessary orders within a period of one month. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

2.The Member Secretary,
Thoothukudi Local Planning Authority,
51, West car street,
Thoothukudi.

+2cc to M/s.J.M.ABDUL RAHMAN Advocate in SR.No.12539,12340

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.12578

SMN/PS

JS/PN/10.03.2017/4P-6C

ORDER MADE IN
W.P (MD) Nos.1880 & 3180 of 2017
and
W.M.P (MD) Nos.1544, 1545,
2528 & 2529 of 2017
03.03.2017