



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.12.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P. (MD) No.22782 of 2017

and

W.M.P. (MD) Nos.19097 and 19098 of 2017

1.G.M.Pathinathan

2.G.M.Micheal

: Petitioners

Vs.

1.State of Tamil Nadu, Represented by
The Principal Secretary,
Department of Municipal Administration
and Water Supply,
State of Tamil Nadu,
Fort St. George,
Chennai.

2.The District Collector,
District Collector Office,
Dindigul District.

3.The Municipal Commissioner,
Municipality Office,
Kodaikanal,
Dindigul District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order in Aa Ka.No.12/2015 F1, dated 13.09.2017 on the file of the Respondent No.3 and quash the same as illegal, consequently, to direct the Respondents to consider the representation submitted by the Petitioners dated 20.11.2017 in accordance with law.

For Petitioners : Mr.LM.Vijay Boominathan,
For Mr.R.Alagumani

For Respondents 1&2 : Mr.M.Govindan,
Special Government Pleader

For Respondent No.3 : Mr.T.S.Mohammed Mohideen

**O R D E R**

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

WEB COPY

The Petitioners have come forward with the present Writ Petition seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order in Aa Ka.No.12/2015 F1, dated 13.09.2017 on the file of the third Respondent, quash the same as illegal and consequently, to direct the Respondents to consider the representation submitted by the Petitioners dated 20.11.2017 in accordance with law.

2. Heard both sides.

3. No counter is filed on behalf of the Respondents 1 to 3.

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

5. According to the Petitioners, their father purchased the property in Old Survey No.372 in Kodaikanal, comprising 192 Square Metre in Ward D, Block 6, T.S.No.9/1 in Woodwill Road, Kodaikanal, Dindigul District, in the year 1968. Subsequently, their father constructed a dwelling house and shops for his survival and he expired in the year 1972. After the demise of their parents, the Petitioners herein continue their business in their shops by renting out the same to others.

6. The version of the first Petitioner is that on 01.02.2012 early morning at 03.15 hours, his building caught on fire and the Fire Service officials put out the fire in the building. Except the walls and terrace, windows, doors, articles and wall plastering in their building were damaged by fire. He gave a complaint before the Kodaikanal Town Police Station relating to fire accident in Crime No.54 of 2012 and a First Information Report was registered for 'accidental fire'.

7. It comes to be known that the Petitioners started to repair the building and they removed the damaged woods and replaced new one and plastered the same, besides carrying out whitewashing in the entire building and completed the repairing works within three months.

8. When that be the fact situation, the third Respondent/Municipality issued a notice on 06.07.2015 to the Petitioners mentioning that they are constructing a new building without obtaining any approval or permission from the third



Respondent. The Petitioners filed a Review Petition before the first Respondent and the first Respondent, in his order dated 01.03.2016, had mentioned that their building was totally burned as ash and further, it was re-constructed etc.

WEB COPY

9. It transpires that the Petitioners submitted a representation on 01.06.2016 before the third Respondent together with their old building plan and in the said representation, they had made mention of that their building was constructed before Master Plan, etc. The clear-cut case of the Petitioners is that they have not altered their building as per the letter dated 01.03.2016, because their building was built before the Master Plan of Kodaikanal. The third Respondent had rejected their plan through communication dated Nil-06.2016 (but signed on 10.06.2016).

10. Apart from the above, the third Respondent issued a notice dated 13.09.2017 stating that the Petitioners have to vacate the building within 15 days, otherwise, the building will be locked and sealed and in fact, the impugned notice was issued only on 15.11.2017.

11. The Petitioners submitted a representation before the third Respondent on 20.11.2017 to take action in cancelling the impugned order and to continue the usage of building, as other buildings constructed in Kodaikanal before the Master Plan. As on date, the representation of the Petitioners dated 20.11.2017 is pending on the file of third Respondent without any progress in the subject matter in issue. As such, this Court, at this stage, simpliciter, without going into the merits and contents of the representation of the Petitioners dated 20.11.2017, in the interest of justice, fair play, equity, good conscience and even as a matter of prudence, directs the third Respondent to look into the representation of the Petitioners, within ten days from the date of receipt of copy of this order. Thereafter, the third Respondent, after providing adequate opportunity, by adhering to the Principles of Natural Justice including an opportunity of personal hearing to be provided to the Petitioners, if situation so warrants/if need be, shall pass a reasoned speaking order on merits assigning qualitative and quantitative details. It is open to the Petitioners to raise all Factual and Legal pleas before the third Respondent and to seek redressal of their grievances, if they so desire/if so advised. It is also open to the Petitioners to furnish a copy of their representation dated 20.11.2017 before the third Respondent, who, in the event of such production of copy of the representation, shall receive the same without any haziness or hesitation, whatsoever. In any event, the third Respondent shall pass a final order based on the representation of the Petitioners dated 20.11.2017, within a period of four weeks thereafter.



12. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Govt.
of Tamil Nadu,
Department of Municipal Administration
and Water Supply,
Fort St. George,
Chennai.

2.The District Collector,
District Collector Office,
Dindigul District.

3.The Municipal Commissioner,
Municipality Office,
Kodaikanal,
Dindigul District.

+1cc to Mr.R.ALAGUMANI, Advocate, SR. 92858

+1cc to Mr.T.S.MOHAMED MOHIDEEN, Advocate, SR. 92634

+1cc to M/S.Special Government Pleader, SR. 93126

W.P. (MD) No.22782 of 2017
13.12.2017

SML

KK/SV MMS/SAR 1/15.12.2017/ 4P- 7C/