



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2017

CORAM:

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

W.P.(MD)No.22998 of 2017
and
W.M.P.(MD)No.19325 of 2017

A.Rawthar Kani : Petitioner
Vs.

1.The Director,
Town and Country Planning,
No.801, Anna Salai,
Chennai.

2.The Members Secretary,
Madurai Local Planning Authority,
Corporation Building,
Madurai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus, to forbear the Respondents from taking any coercive action on the basis of the notice issued by the second Respondent in his proceedings in Na.Ka.No.828/2017/MD.5, dated 22.08.2017 and 08.09.2017 pending final determination of the Retention Application submitted by the Petitioner dated 26.09.2017 under Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.M.Mahaboob Athiff,
For M/s.Ajmal Associates
For Respondents : Mr.T.R.Janarthanan,
Additional Government Pleader

O R D E R

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

The Petitioner has come forward with the present Writ Petition seeking for the issuance of a Writ of Mandamus, to forbear the Respondents from taking any coercive action on the basis of the notice issued by the second Respondent in his proceedings in Na.Ka.No.828/2017/MD.5, dated 22.08.2017 and 08.09.2017 pending final determination of the Retention Application submitted by the Petitioner dated 26.09.2017 under Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971.



2. Heard both sides.

3. No counter is filed on behalf of the Respondents 1 and 2.

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

5. The Learned Counsel for the Petitioner submits that the Petitioner had addressed a 'Retention Application' dated 26.09.2017 to the Second Respondent/Member Secretary, Madurai Local Planning Authority, whereby and whereunder, a request was made to the Planning Authority that they may not proceed with any coercive action, as specified under Section 56(4) of the Tamil Nadu Town and Country Planning Act, 1971. It is not in dispute that the said Application is pending before the second Respondent as on date.

6. Considering the fact that the Petitioner's Retention Application dated 26.09.2017 is pending on the file of the second Respondent as on date, without any progression in the subject matter in issue, this Court, based on equity, fair play and good conscience, simpliciter, without traversing upon the merits of the subject matter in issue, directs the second Respondent/Member Secretary, Madurai Local Planning Authority, to look into the Retention Application of the Petitioner dated 26.09.2017, within one week from the date of receipt of copy of this order. Thereafter, the second Respondent is directed to dispose of the said Retention Application, of course, after providing adequate opportunity of hearing to the Petitioner, by adhering to the Principles of Natural Justice in true letter and spirit, by passing a reasoned speaking order ascribing necessary qualitative and quantitative reasons, so as to have an appearance of justice. As a matter of fact, the order to be passed based on the Retention Application of the Petitioner dated 26.09.2017 is to be passed by the second Respondent, within a period of four weeks thereafter. It is open to the Petitioner to raise all Factual and Legal pleas before the second Respondent, who shall advert to each and every point raised by the Petitioner and dispose of the Retention Application in a complete and comprehensive manner with a view to give a quietus to the subject matter in issue.

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

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar



WEB COPY

1.The Director,
Town and Country Planning,
No.801, Anna Salai,
Chennai.

2.The Members Secretary,
Madurai Local Planning Authority,
Corporation Building,
Madurai.

+One cc to M/s.Ajmal Associates, Advocate, SR.No.92887

+One cc to The Special Government Pleader, SR.No.93115

SML
RL/5C/3P/SKN/RSK/SAR4/28/12/2017

Order made in
W.P.(MD)No.22998 of 2017

Dated: 14.12.2017
(1/2)