



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2017

CORAM:

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

W.P. (MD) No. 23760 of 2017

St. Mary's Industrial Training Institute,
Rep. by its Correspondent,
Mr. Chirsturaj,
S/o. Ganaprakasam,
Gandhi Nagar,
Kumbakonam,
Thanjavur District.

: Petitioner

.vs.

1. The District Collector,
Thanjavur District,
Thanjavur.

2. The Member Secretary,
Kumbakonam Local Planning Authority,
No. 93/8, Kamarajar Road,
Kumbakonam,
Thanjavur District.

3. The Commissioner,
Kumbakonam Municipality,
Kumbakonam,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the Respondents 2 and 3 to pass order to remove the lock and seal dated 11.04.2017 by considering the Petitioner's representation dated 18.09.2017 in the light of the order passed by this Honourable Court in W.P(MD)No.6539 of 2017 dated 21.08.2017 within the period that may be stipulated by this Honourable Court.

For Petitioners

: Mr. B. Janath Ahmed Alias Jana

For R-1 & R-2

: Mr. T. R. Janarthanan,

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Government Pleader

For R-3

: Mr. M. Rajarajan



O R D E R

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

Heard both sides.

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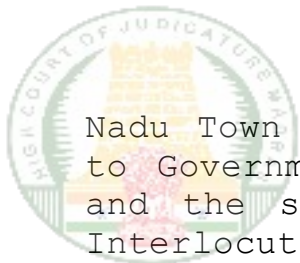
2. In the Writ Petition, the Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in directing Respondent Nos.2 and 3 to pass order to remove the lock and seal dated 11.04.2017 by considering the Petitioner's Representation dated 18.09.2017 in the light of the order passed by this Court in W.P(MD)No.6539 of 2017 dated 21.08.2017 within the period to be determined by this Court.

3. At this stage, the Learned Counsel for the Petitioner points out that the Petitioner Institution is in existence since 1914 and the impugned proceedings seeking to seal the premises for having constructed the building without Planning Permit under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, when the building was constructed much prior to the very Act, is illegal etc. That apart, the Petitioner had submitted a Plan seeking approval for the Structure as early as on 19.01.2011 and the same was taken on file in File No.75 of 2011 and the same is pending consideration in the hands of the Second Respondent. As such, it is the plea of the Petitioner that the coercive action of the Third Respondent by means of the impugned proceedings dated 07.04.2017 is contrary to the statutory provisions under Sections 56(3) r/w 56(4)(a) of the Tamil Nadu Town and Country Planning Act, 1971.

4. The Petitioner preferred W.P(MD)No.6539 of 2017 aggrieved over the Second Respondent's action, but, in the meantime, the Third Respondent had locked and sealed the premises in question and since the Writ Petition has become an infructuous one, on 21.08.2017 this Court had directed the Respondents to process the Application as expeditiously as possible.

5. It is the version of the Petitioner that he submitted the additional documents for Plan Approval before the Second Respondent as required by him vide proceedings dated 07.06.2017. After receipt of additional documents, it is the plea of the Petitioner that the Second Respondent had not passed any orders. As such, the Petitioner sent a Representation to the Respondents on 18.09.2017 and it proved in vain. Subsequently, a reminder was sent on 25.10.2017. Even after that, no orders have been passed by the Respondents.

6. At this juncture, the Learned Counsel for the Petitioner <https://hservices.courts.gov.in/hservices/> is the notice of this Court that the Petitioner had filed an Appeal dated 10.05.2017 under Section 80-A of the Tamil



Nadu Town and Country Planning Act, 1971, before the Secretary to Government, Housing and Urban Development Department, Chennai and the same is pending. Also, the Petitioner has filed an Interlocutory/Miscellaneous Petition before the Authority, where the Appeal under Section 80-A of the Act filed by him is pending.

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7. Considering the fact that the Petitioner's Appeal filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, is pending before the Secretary to Government, Housing and Urban Development Department, Chennai, together with the Interim Application till date without any progress in the subject matter in issue, at this stage, this Court deems it fit and proper in directing the Secretary to Government, Housing and Urban Development Department, Chennai, to take up the main Appeal itself and to dispose of the same, within a period of six weeks from the date of receipt of a copy of this order, of course, after providing enough opportunity to the Petitioner and others concerned by following the principles of natural justice.

8. It is needless for this Court to make a significant mention that the Secretary to Government, Housing and Urban Development Department, Chennai, shall pass final orders in the Appeal filed by the Petitioner together with Interim Application in a qualitative and quantitative manner and also after taking into account the overall assessment of the facts and circumstances of the present case in an integral manner.

9. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Housing and Urban Development Department,
State of Tamil Nadu,
Chennai.
2. The District Collector,
Thanjavur District,
Thanjavur.
3. The Member Secretary,
Kumbakonam Local Planning Authority,
No.93/8, Kamarajar Road,
Thanjavur District.



+1cc to Mr.B.Janath Ahmed Alias Jana, Advocate Sr.No.94557
+1cc to Mr.M.Rajarajan, Advocate Sr.No.94530
+1cc to Spl.Government Pleader Sr.No.95014

PM
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VB/GT/SAR4/04/01/2018/4P/7C

ORDER MADE IN
W.P. (MD) No.23760 of 2017
22.12.2017