



WEB COPY

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.23810 of 2017
and
W.M.P.(MD)No.19988 of 2017

Palani Kumar

: 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 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 Respondents	: Mr.M.Govindan, Special 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 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.

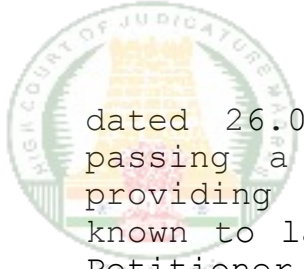
4. By consent, the main Writ Petition itself is taken up for final disposal at the stage of admission.

5. According to the Petitioner, he applied for Planning Permission before the second Respondent, who accorded Planning Permission in Approval No.57/85, dated 21.05.1985. The said approval was also ratified and approved by the first Respondent. He had constructed a structure in the said premises strictly in accordance with the Plan Approval. A notice came to be issued under Section 56 (1) of the Tamil Nadu Town and Country Planning Act, 1971 alleging, among other things, that the Petitioner's building was inspected on 22.08.2017 and that on the basis of the same, certain deviations were noticed and, therefore, a notice was issued on the very same day, granting three days time to make good the deviations.

6. At this stage, the Learned Counsel for the Petitioner proceeds to point out that the initiation of proceedings under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 is not a valid one, because of the reason that the Petitioner was not issued with a copy of the inspection report nor he was present at the relevant point of time. In short, without issuance of prior notice, an inspection was conducted and also a copy of the report was not served to the Petitioner, which, according to him, is in breach of the Principles of Natural Justice.

7. As on date, the 'Retention Application' submitted by the Petitioner dated 26.09.2017 [filed under Section 56(3) r/w 56(4) of the Tamil Nadu Town and Country Planning Act, 1971] is pending on the file of the second Respondent. Till date, the same is not yet disposed of.

8. Considering the fact that the Petitioner's Retention Application dated 26.09.2017 [filed under Section 56(3) r/w 56(4) of the Tamil Nadu Town and Country Planning Act, 1971] is pending on the file of the second Respondent, at this juncture, this Court, without traversing upon the contents and merits of the subject matter in issue or the Retention Application of the Petitioner dated 26.09.2017, simpliciter, directs the second Respondent/Member Secretary, Madurai Local Planning Authority, to look into the Retention Application of the Petitioner dated 26.09.2017 [filed under Section 56(3) r/w 56(4) of the Tamil Nadu Town and Country Planning Act, 1971], within a period of two weeks from the date of receipt of copy of this order. Thereafter, the second Respondent shall dispose of the said Retention Application of the Petitioner



dated 26.09.2017, within a period of four weeks thereafter, by passing a reasoned speaking order on merits, of course, after providing necessary opportunity to the Petitioner in the manner known to law and in accordance with law. Liberty is granted to the Petitioner to raise all Factual and Legal Pleas before the second Respondent, who shall meet out each and every point raised by the Petitioner and dispose of the said Retention Application in a complete, comprehensive and wholesome manner with a view to give a quietus to the subject matter in issue.

9. 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 (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Director,
Town and Country Planning,
No.801, Anna Salai,
Chennai.
2. The Members Secretary,
Madurai Local Planning Authority,
Corporation Building,
Madurai.

+ 1 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 94606
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 94912

SML

TE/SV-MMS/SAR-3 : 05/01/2018 : 3P/5C

Order made in
W.P. (MD) No.23810 of 2017 and
W.M.P. (MD) No.19988 of 2017
Dated: 22.12.2017