



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE **A.SELVAM**
and
THE HONOURABLE MR.JUSTICE **N.AUTHINATHAN**

W.P(MD)No.3931 of 2017
and
W.M.P(MD)Nos.3112 to 3114 of 2017

A.Thilagam

.. Petitioner

Vs.

1.The Chairman/The District Collector,
Tirunelveli Town Planning Authority,
Tirunelveli.

2.The Member Secretary,
Tirunelveli Town Planning Authority,
Tirunelveli.

3.M/s.Raja Deepan Jewellery rep. by
its Partner Mr.P.Natarajan,
181 5/A, S.N.High Road,
Sripuram, Tirunelveli - 1.

.. Respondents

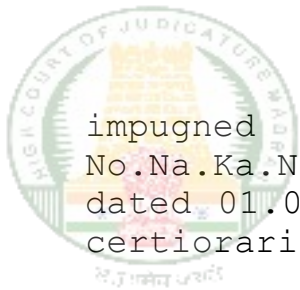
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records culminating in issuance of the impugned proceeding issued by the first respondent dated 27.02.2017 bearing reference No.Na.Ka.No.1535/16 Thi Vu Thi Ku and consequential proceedings dated 28.02.2017 bearing date 01.03.2017, to quash the same as null and void and direct the first and second respondents to remove the lock and seal and permit the third respondent to run the shop in No.181 5/A, S.N.High Road, Sripuram, Tirunelveli - 627 007.

For Petitioner : Mr.K.Mahendran
For Respondents 1 and 2 : Mr.M.Govindan,
Special Government Pleader.

ORDER

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

<https://hcservices.ecourts.gov.in/hcservices/>
This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the



impugned proceedings dated 27.02.2017 bearing No.Na.Ka.No.1535/16Thi.Vu.Thi.Ku and the consequential proceedings dated 01.03.2017 and quash the same, by way of issuing a writ of certiorarified mandamus.

2.Mr.M.Govindan, learned Special Government Pleader, has taken notice for the respondents 1 and 2. Considering the nature of the relief sought in the writ petition and also considering the fact that the petitioner is the owner of the building mentioned therein, notice need not be sent to the third respondent.

3.It is averred in the petition that the petitioner is the owner of the building mentioned in the proceedings. But the second respondent has given proceedings by way of stating that unauthorised construction should be removed within a period of twenty four hours under Section 56(2A) of the Tamil Nadu Town and Country Planning Act, 1971. The period mentioned in the proceedings is totally against law and further the notice has not been personally served to the petitioner. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

4.The learned counsel appearing for the petitioner has advanced his argument only on the basis of the period mentioned in the proceedings.

5.The learned Special Government Pleader appearing for the respondents 1 and 2 has also equally contended to the effect that several notices have been issued and ultimately the proceedings dated 01.03.2017 has also been issued.

6.It is seen from the records that all proceedings have been initiated only under Sections 56(2A) and 57(4) of the Tamil Nadu Town and Country Planning Act, 1971.

7.It is an admitted fact that as per Section 56 of the said Act, thirty days notice is very much essential. But in the instant case in all the proceedings only twenty four hours time has been given and further no notice has been served personally to the petitioner.

8.Since all the proceedings have not been given on the basis of Section 56 of the said Act and since no personal notice has been given to the petitioner, this Court is of the view that the impugned proceedings are liable to be quashed.

9.In fine, this writ petition is allowed without costs and the proceedings dated 27.02.2017 and 01.03.2017 are quashed. However the second respondent is at liberty to give a fresh notice as contemplated under Section 56 of the Tamil Nadu Town and



Country Planning Act, 1971 to the petitioner and take appropriate action. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

/TRUE COPY/

Sd/-
Assistant Registrar

Sub Assistant Registrar

To

- 1.The Chairman/The District Collector,
Tirunelveli Town Planning Authority,
Tirunelveli.
- 2.The Member Secretary,
Tirunelveli Town Planning Authority,
Tirunelveli.

+1 cc to MR.K.MAHENDRAN, ADVOCATE, SR NO:12794

SMN

jm/sar2/cm msa/08/03/2017/4c/3p

ORDER MADE IN
W.P (MD) No.3931 of 2017
and
W.M.P (MD) Nos.3112 to 3114 of 2017
07.03.2017