



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2017

CORAM:

THE HONOURABLE **MR.HULUVADI G.RAMESH,**
ACTING CHIEF JUSTICE

AND

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**

W.P. (MD) .No.4203 of 2017

Mr.Anandaraj,
S/o.Devaraj,
No.306/1, Santhana Mariamman Kovil Street,
Tiruchendur,
Thoothukudi District.

: Petitioner

Vs.

1.The Government of Tamil Nadu,
Through its Secretary to the Government,
Housing and Urban Development Department
Secretariat,
Fort St. George,
Chennai - 9.

2.The Deputy Director of Town and Country Planning
Tirunelveli Region,
No.108, Trivandrum Road,
Palayamkottai
Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other order or orders in the nature of Writ forbearing the second respondent in any manner from giving effect to the notice issued by the second respondent in his proceedings in Na.Ka.No.2087/2016 ThiLiMa3 (57) dated 20.02.2017 in respect of the Udhayam International Hotel, Tiruchendur till the statutory revision filed by the petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 filed on 25.02.2017 is disposed of by the first respondent herein in accordance with law.

**O R D E R***********

[Order of the Court was made by
The Hon'ble The Acting Chief Justice]

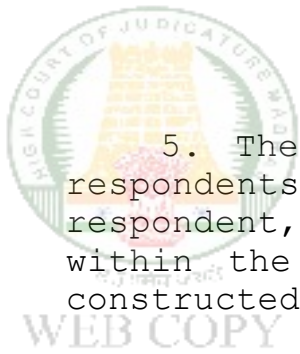
Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner has filed this Writ Petition to forbear the second respondent from, in any manner, giving effect to the notice issued on 22.02.2017, in respect of a hotel building constructed by him in Tiruchendur, till the statutory revision filed by him under Section 80-A of the Tamil Nadu Town and Country Planning Act 1971, is disposed of by the first respondent.

3. The case of the petitioner is that he purchased an extent of 65 cents of land in Tiruchendur and commenced construction, during August 2008, after obtaining plan approval from the Local Authority, the Executive Officer of Tiruchendur Selection Grade Town Panchayat and the construction was completed during May 2010. The petitioner claims that he is running hotel business in the building from July 2010 onwards and that the building has been assessed to property tax. While so, the petitioner received a notice from the Executive Officer of the said Town Panchayat stating that the construction put up by the petitioner is in violation of the statutory Rules and the construction has been put up without permission from the Coastal Regulation Zone Authority. The petitioner was directed to demolish the building within seven days failing which action will be taken under Sections 216 and 217 of the Tamil Nadu District Municipalities Act 1951 and under Sections 56 and 57 of the Tamil Nadu Town and Country Planning, 1971. Subsequently, the second respondent, who is the Deputy Director of Town and Country Planning, has issued notice to the petitioner, directing him to de-occupy the building within thirty days. As against the said notice issued under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner is stated to have filed a statutory revision petition before the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. Parallely, the petitioner moved this Court and filed W.P.(MD).No.3509 of 2017, challenging the order passed by the Executive Officer of the Town Panchayat. The said Writ Petition was disposed of, by order dated 28.02.2017, directing the petitioner to submit a representation to the Executive Officer. Since thirty days time limit given by the second respondent is about to expire and the second respondent is taking steps to give effect to his notice, the petitioner is before this Court.

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4. The learned counsel for the petitioner submitted that since the appeal filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, is still pending, till the same is disposed of, the notice issued by the second respondent should not be implemented.



5. The learned Special Government Pleader appearing for the respondents submitted that in the notice issued by the second respondent, liberty has been given to him to submit a revised plan within the time frame, which he has not done and the building constructed by him is in violation of the Coastal Regulation Zone.

6. We find that the notice issued by the second respondent dated 20.02.2017 directs the petitioner to submit his explanation or the revised plan within a period of thirty days. However, the petitioner, without submitting his reply/revised plan, has approached the first respondent by way of Revision Application under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. If the building put up by the petitioner is in violation of the Rules and Regulation and if the revised plan is acceptable as per the provision of the Statute, it is open to the petitioner to avail such remedy or if the first respondent, while considering the revision application finds merit in the same, it is for the first respondent to issue appropriate directions. Therefore, we grant two months time to the petitioner either to go before the second respondent by way of proper reply or to pursue his revision application. Till such time, the respondents authority not to take coercive steps.

7. The Writ Petition is disposed of on the above terms. No costs.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary to Government,
Housing and Urban Development Department
Secretariat, Fort St. George,
Chennai - 9.

2.The Deputy Director of Town and Country Planning
Tirunelveli Region,
No.108, Trivandrum Road,
Palayamkottai
Tirunelveli District.

+1 cc to M/R.T.A.EBENEZER, Advocate, SR.NO:14222

+1 cc to M/S.SPECIAL GOVERNMENT PLEADER, SR.NO:14378

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ORDER MADE IN
W.P. (MD) .No.4203 of 2017
13.03.2017