



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD) No.4391 of 2011 and
M.P. (MD) No.1 of 2011**

M.Vasela

... Petitioner

-vs-

The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned orders passed by the respondent in his proceedings Ka.Ma.No.41/2007/F1 dated 26.10.2010 and the consequential confirmation order in B.A.No.41/2007/F1 dated 23.03.2011 and quash the same as illegal and arbitrary.

For Petitioner : Mr.B.Saravanan

For Respondent : Mr.S.Kadar Karai

ORDER

This petition has been filed, seeking to quash the impugned order of the respondent dated 26.10.2010 passed in Ka.Ma.No.41/2007/F1, which is a notice, directing the petitioner to show cause as to why the building, constructed unauthorizedly, should not be demolished. The petitioner also seeks to quash the confirmation order dated 23.03.2011 issued in B.A.No.41/2007/F1, vide which, the petitioner was directed to demolish the unauthorized building within seven days, failing which, the same would be demolished by the respondent at the cost of the petitioner.

2. Heard the learned counsel on either side.

3. The case of the petitioner is that after obtaining necessary building plan approval from the respondent, she constructed a building and has been paying property tax to the respondent. However, subsequently, the petitioner was directed to remove the construction, stating that the same has been constructed in violation of Hill Area Building Rules. The impugned



confirmation order dated 23.03.2011 suddenly came to be passed and aggrieved by the same, the petitioner is before this Court.

4. According to the learned counsel for the petitioner, the notice dated 26.10.2010, purported to have been sent by the respondent has not been served on the petitioner at all and therefore, without providing an opportunity to file her objection, the subsequent order of confirmation has been passed. It is also brought to the notice of this Court by the learned counsel for the petitioner that on earlier occasion, the petitioner sent a reply dated 24.12.2009 to the respondent by RPAD, which has not been considered by the respondent.

5. Per contra, the learned counsel for the respondent has contended that in the confirmation order dated 23.03.2011, it has been specifically observed that no reply was received from the petitioner and therefore, it is clear that notice had already been sent by the respondent to the petitioner.

6. This Court, in order to give quietus to the issue and considering the paucity of time of six years, directs that the impugned order 23.03.2011 be treated as a show cause notice and the petitioner shall file necessary reply to the same along with relevant documents, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply to be filed by the petitioner, the respondent shall pass appropriate orders thereon on merits and in accordance with law, within a period of four weeks thereafter.

With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True copy/

Sub Assistant Registrar

To:

The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

+1 cc to Mr.B.Saravanan , Advocate in SR.No. 71388
+1 cc to Mr.S.Kadarkarai , Advocate in SR.No. 71394

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