

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1636 of 2017 and
CMP No.21324 of 2017

1.P.Abdul Azeez
2.K.Sathick Basha

.... Appellants

-vs-

1.The Executive Officer,
Muthupettai Town Panchayat, Muthu Pettai,
Thiruthuraipoondi Taluk, Thiruvarur District.

2.H.Haroon

.... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.33929 of 2013 dated 20.10.2017.

W.P.No.33929 of 2013:

Petition under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 1st respondent bearing Na. Ka. No. 315/2013/A2 dt 12.8.2013 and quash the same as illegal, unjust and against the settled principles of natural justice and to direct the first respondent to permit the petitioner to continue the construction work in accordance with the planning approval dated 7.6.2013

For Appellants : Mr.R.Abdul Hubeen for
Mr.Murugesh Kasivel

For Respondents: Mr.V.Anandhamoorthy
Addl.Govt.Pleader for R1
Mr.K.C.Vinodh for R2

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The appellants obtained planning permission for construction of a residential building in Survey Nos.114/9 and 114/90 in Muthupettai Town Panchayat, Thiruthuraipoondi Taluk, Tiruvarur District. The appellants made an attempt to convert the building as a religious building, resulting in initiating proceedings by the Town Panchayat. The order passed by the Executive Officer, Muthupettai Town Panchayat dated 12 August 2013 directing the appellant to stop further construction was challenged in W.P.No.33929 of 2013. The writ petition was dismissed. The order is under challenge at the instance of the unsuccessful writ petitioner.

2. This Court taking into account the background facts passed an order dated 19 December 2017 giving liberty to the appellants to submit a representation to the District Collector under Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 to use the building for religious purpose. The District Collector pursuant to the application submitted by the appellants considered the issue in extenso and by order dated 25 June 2018 negatived the prayer. The District Collector has given liberty to the appellants to approach the Executive Officer, Town Panchayat, Muthupettai, in case of taking a decision to use the building for office purpose.

3. There is no dispute that the original permission was only for construction of a residential building. The appellants have no case that they have complied with the provisions of the Tamil Nadu District Municipalities Building Rules, 1972 in respect of a religious building. The appellants after obtaining building permission for residential purpose wanted to convert it as a religious building. The issue was considered by the District Collector during the currency of this appeal. Since the District Collector has already turned down the request made by the appellants, we are not in a position to entertain this appeal. We are therefore of the view that the appeal deserves to be dismissed.

4. In the result, the intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

svki

To

1.The Executive Officer,
Muthupettai Town Panchayat,
Muthu Pettai, Thiruthuraipoondi Taluk,
Thiruvarur District.

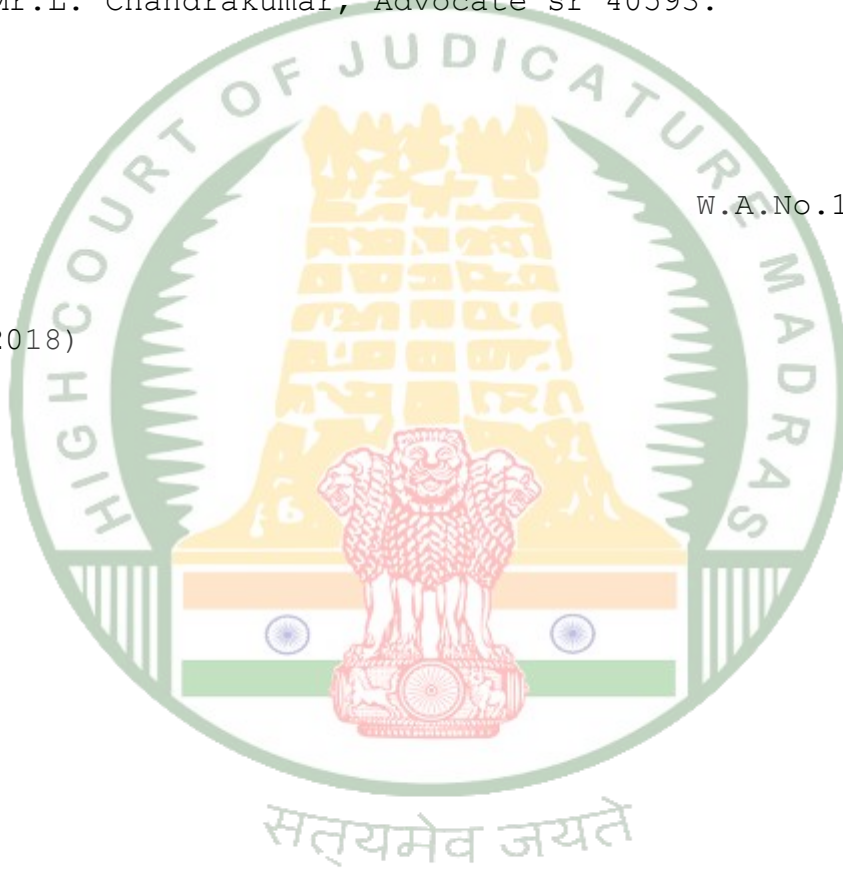
+1 CC to Govt. Pleader sr 41423.

+1 CC to Murugesan Kasivel, Advocate sr 40863.

+1 CC to Mr.L. Chandrakumar, Advocate sr 40593.

W.A.No.1636 of 2017

JP(CO)
SP(17/07/2018)



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