

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.26335 of 2017

Kotagiri Lodges, Resorts and Cottage Owners Association,
rep. by its President,
C.B.Ramachandra Reddy,
Regn. No.132/2014,
Under the Tamil Nadu Societies Registration Act,
Having Office at 17/77,
Donnington Road, Kotagiri,
Nilgris - 643 217. Petitioner

vs.

1. The Assistant Director of Town Panchayat and Planning, Udagamandalam, Nilgris District.
2. The Executive Officer, Kotagiri Town Panchayat, Kotagiri - 643 217. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 1st Respondent to dispose of the statutory Appeal filed under Section 56(3) and Petition filed under Section 49 of the Town and Country Planning Act filed by the President, Kotagiri Lodges, Resorts and Cottage Owners Association on behalf of their members, dated 23.09.2017 and after giving opportunity to the Petitioner.

For Petitioner : Mr.S.Venkatesh
For 1st Respondent : Mr.A.N.Thambidurai,
Special Govt. Pleader
For 2nd Respondent : Mr.M.Dig Vijay Pandian,
Additional Govt. Pleader

O R D E R
(Order of the Court was made by M.VENUGOPAL,J.)

Heard Mr.S.Venkatesh, learned Counsel for the Petitioner, Mr.A.N.Thambidurai, Learned Special Government Pleader appearing for the 1st Respondent and Mr.M.Dig Vijay Pandian, Learned Additional Government Pleader appearing for the 2nd Respondent.

2. According to the Petitioner/Association, there are some Hoteliers running their Hotels at Kotagiri and they had converted their Hotels into Resorts and Cottages, as early as in the year 2011 itself. In this connection, it is the stand of the Petitioner that the 2nd Respondent/Executive Engineer, Kotagiri Town Panchayat had issued a Lock and Seal Notice under Section 56(2) and 2(A) of the Town and Country Planning Act, 1971, on 19.09.2017. The only deficiency, according to the Petitioner/Association is that they had converted the Hotel into Resorts without obtaining permission from the 2nd Respondent/Executive Engineer, Kotagiri Town Panchayat, against which, the members of the Petitioner/Association had prepared a common Appeal under Section 56(3) of the Town and Country Planning Act, 1971 and also a Petition under Section 49 of the Town and Country Planning Act, 1971 for retention of the building. Indeed, the said Appeal was preferred on 23.09.2017 before the 1st Respondent and the same was acknowledged on 28.09.2017. Together with the Appeal Petition filed by the Petitioner before the 1st Respondent, the Petitioner had also filed a stay Petition. As on date, both the Appeal and the Stay Petition are pending and the last hearing date was 09.12.2017.

3. At this juncture, learned counsel for the Petitioner submits that the Petitioner/Association will be satisfied if the 1st Respondent/Assistant Director of Town Panchayat and Planning, Udagamandalam is directed to dispose of the Appeal and Stay Petition filed by the Petitioner/Association within the stipulated time, as fixed by this Court.

4. The factum of the Petitioner/Association preferring an Appeal before the 1st Respondent together with the filing of the Stay Petition are not disputed on behalf of the Respondents. That apart, the Petitioner/Association had submitted a revised Plan before the 1st Respondent and as such, considering the entire conspectus of the attendant facts and circumstances of the present case in an integral manner, this Court is of the considered view that the Appeal pending before the 1st Respondent can be disposed of within a period of four weeks from the date of receipt of a copy of this order, by the 1st Respondent.

5. Viewed in that perspective, this Court deems it fit and proper in directing the 1st Respondent/Assistant Director of Town Panchayat and Planning, Udagamandalam to dispose of the Appeal together with the Stay Petition, after hearing the Petitioner/Association, the Respondents and others concerned, after providing necessary opportunity of hearing to all of them and it cannot be gainsaid that the 1st Respondent has to pass a reasoned Speaking order on merits in qualitative and quantitative terms ascribing necessary reasons thereto, after adhering to all the averments/meet out the points raised by the Petitioner/Association. The 1st Respondent shall dispose of the Appeal in a fair, free, just, unbiased and dispassionate fashion, untrammelled and uninfluenced with any of the observations made by this Court in this Writ Petition, of course, within the time determined by this Court.

6. The Petitioner/Association and others are at liberty to raise all factual and legal issues before the 1st Respondent, who shall take into account of the same at the time of passing final orders in the Appeal.

7. The Authorities are directed to ensure that the buildings/Hotels raised by the Petitioner/Association are quite in conformity with the Sanctioned/Approved Plan, as envisaged in law.

8. With the aforesaid observation(s) and direction(s), this Writ Petition stands disposed of. No costs. Consequently, connected W.M.P.No.27993 of 2017 is closed.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

(aeb)

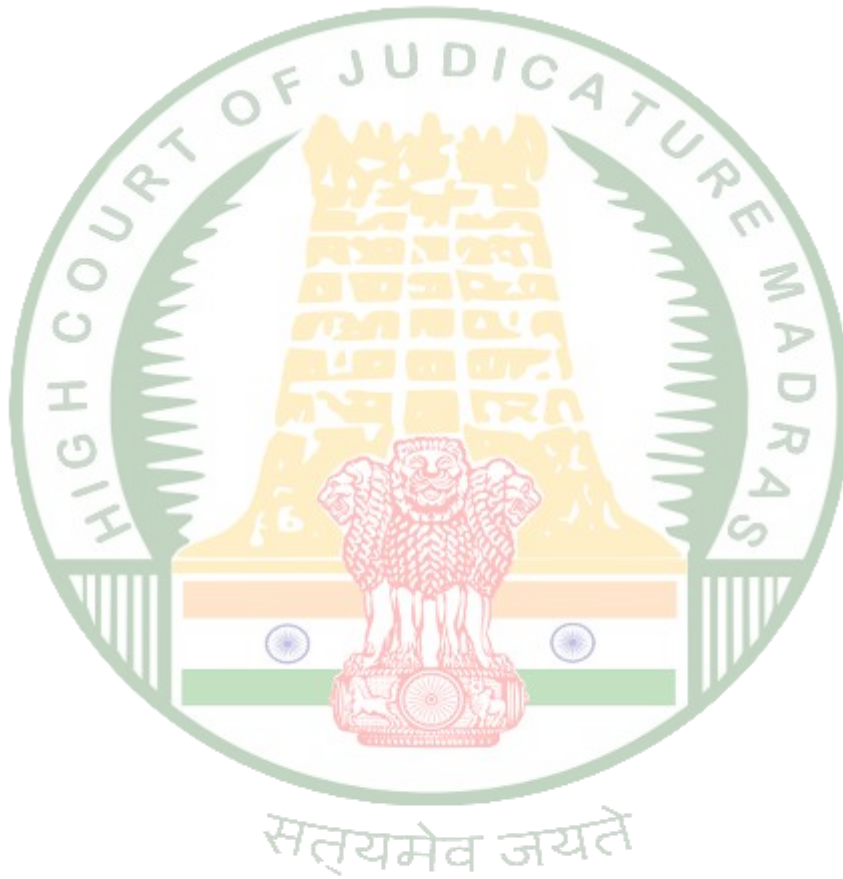
To:

1. The Assistant Director of Town Panchayat and Planning, Udagamandalam, Nilgris District.
2. The Executive Officer, Kotagiri Town Panchayat, Kotagiri - 643 217.

+1 CC to Mr.M.Dig Vijay Pandian, Advocate sr 6018.
+1 CC to Mr.S. Venkatesh, Advocate sr 5979.

W.P.No.26335 of 2017

RSI (CO)
SP(13/02/2018)



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