



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2018

CORAM:

WEB COPY

**THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI**

Writ Petition (MD).Nos. 1506 and 1615 of 2018
and
W.M.P. (MD) Nos.1586, 1702 and 1703 of 2018

W.P. (MD) No.1506 of 2018:

The Indian Club,
Rep. By its Secretary,
D.Daleep Singh,
S/o. Dungar Singh,
No.49, NOYCE Road,
Kodaikanal,
Dindigul.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by the Principal Secretary,
Department of Municipal Administration & Water Supply,
Fort St. George,
Chennai-600 009.
2. The District Collector,
Dindigul District,
Dindigul.
3. The Member Secretary/Commissioner,
Kodaikanal Municipality and
Kodaikanal Local Planning Authority,
Kodaikanal,
Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to remove the lock and seal for the petitioners building in Survey No.382/part in TS.No.5 part ward-D, Block No.1 P.T.Road, Kodaikanal Taluk, Dindigul District in light of the application made by the petitioner dated 10.01.2018 under Section 80(A) of the Tamil Nadu Town and Country Planning Act 1971.



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For Petitioner : Mr.T.Lajapathi Roy
For Respondents 1 and 2 : Mr.V.R.Shanmuganathan
Special Government Pleader
For Mr.S.Dhayalan,
Government Advocate
For third Respondent : Mr.Mohammed Mohideen
Standing Counsel

W.P.(MD)No.1615 of 2018:

The Indian Club,
Rep. By its Secretary,
S.Arumugam,
S/o. Sundarapillai,
P.T.Road, Kodaikanal,
Dindigul District.

... Petitioner

Vs.

1. The Secretary,
Directorate of Town and Country Planning,
Anna Salai,
Chennai.

2. The Deputy Director,
Town and Country Planning,
Hakkim Ajmalkhan Road,
Chinna Chokkikulam,
Madurai.

3. The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorified Mandamus, to call for the records in notification Na.Ka.No.3279/2007/F1 dated 15.11.2017 issued by the respondent No.3 and quash the same consequently forbear the respondent No.3 from interfering with my peaceful possession and enjoyment of 2000 sq.ft in Old Survey No.382, correlated re-survey Ward D, Block No.1, T.S.No.5 and not to demolish the building belonging to the Indian Club Office.

For Petitioner : Ms.S.E.Monica Vincent

For Respondents 1 and 2 : Mr.V.R.Shanmuganathan
Special Government Pleader

For third Respondent : Mr.T.S.Mohammed Mohideen
Standing Counsel

**COMMON ORDER**

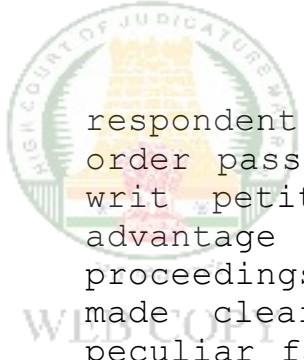
(Order of the Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner in W.P.(MD)No.1506 of 2018, Ms.S.E.Monica Vincent, learned counsel appearing for the petitioner in W.P.(MD)No.1615 of 2018, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.T.S.Mohammed Mohideen, learned counsel appearing for the third respondent.

2.The petitioner in both the writ petitions is the Indian Club which is a Society registered under the provisions of Tamil Nadu Societies Act. The petitioners are one and the same, it is represented by two persons one by D.Daleep Singh who is stated to be the Secretary of the Society and other by S.Arumugam, who also claims himself as Secretary of the Society. The dispute between the two individual and persons behind them appears to be a personal dispute and internal dispute within the Society and can have no impact on the proceedings initiated by the respondent authorities. Though both the Secretaries are at loggerheads, both of them seek for a similar prayer, to set aside the proceedings issued by the respondents sealing the building owned by the petitioner Society.

3.The petitioner Society is called Indian Club. It appears that there are other properties which are commonly called as Indian Club and it is a vast extent. There are residential, non-residential and other commercial establishments. One such establishment is being run under the name and style of Kings' Park. We directed the sealing of the building, the building being unauthorized construction. This direction has been complied with by the Commissioner vide an order dated 02.03.2018. However, in these writ petitions, we are concerned about the building consisting of ground plus first floor. As it appears from the photograph which is filed in Page No.45 of the typed set of papers in W.P.(MD)No.1615 of 2018. We are informed that on the first floor of the building, there is a cooperative society under the name and style of Kodaikanal Taluk Cooperative House Building Society Limited. The officials of the respondent Municipality have sealed the building.

4.Considering the fact that there is a Cooperative Society functioning in the building and the building appears to be small building with ground plus first floor with slopping roof, without prejudice to the further action to be taken by the respondent Municipality, we direct the respondent Municipality to unlock and unseal of the building not only ground floor but also the first floor where the Cooperative Society is functioning. We make it clear that the direction is only with regard to the ground plus first floor, not other buildings within the same campus. Against other buildings, appropriate legal action should be taken by the



respondent Municipality. We make it clear that on account of the order passed unlocking and unsealing the building, the respective writ petitions, namely respective Secretaries shall not take advantage nor place reliance of this order in the Civil proceedings which are pending before the Civil Court. It is also made clear that this order has been passed considering the peculiar facts and circumstances of the case and taking note that the tenant of the Indian Club is a cooperative Society and the building appears to be small building with ground plus first floor.

5.The above direction shall be complied with within a period of one week from the date of receipt of copy of this order. With the above observation, these writ petitions are disposed of. No Costs. Consequently, W.M.P.(MD)Nos.1586, 1702 and 1703 of 2018 are closed.

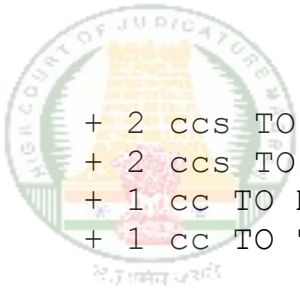
Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government of Tamil Nadu,
Department of Municipal Administration & Water Supply,
Fort St. George, Chennai-600 009.
2. The District Collector,
Dindigul District,
Dindigul.
3. The Member Secretary/Commissioner,
Kodaikanal Municipality and
Kodaikanal Local Planning Authority,
Kodaikanal,
Dindigul District.
4. The Secretary,
Directorate of Town and Country Planning,
Anna Salai,
Chennai.
5. The Deputy Director,
Town and Country Planning,
Hakkim Ajmalkhan Road,
Chinna Chokkikulam,



+ 2 ccs TO Mr.T.S.Mohamed Mohideen, Advocate in SR No. 55181,55180
+ 2 ccs TO Mr.T.Lajapathi Roy , Advocate in SR No. 54934,54964
+ 1 cc TO Mr.S.E.Monica Vincent , Advocate in SR No. 54988
+ 1 cc TO The Special Government Pleader in SR No. 55137

mrn

AE/JC/SAR1/26.03.2018/5P/12C

Writ Petition (MD).Nos.1506 and 1615 of 2018
13.03.2018