



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.2398 of 2018
and
W.M.P(MD)No.2613 of 2018

Vijayan Soans

.. Petitioner

Vs.

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
 2. The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
 3. The Commissioner of Town and Country Planning,
807, Anna Salai,
Chennai-600 002.
 4. The Deputy Director,
Town and Country Planning,
4, Hakkim Ajmalkhan Road,
Chinnachokkikulam,
Madurai.
 5. The Member Secretary/Commissioner,
Kodaikanal Local Planning Authority,
Kodaikanal Municipality, Kodaikanal.
- .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the fifth respondent, dated 28.12.2017, in Na.Ka.No.3306/2007/F1 and quash the same as illegal and consequently direct the respondents to exempt and regularize the petitioner's buildings, situated at Ward B, Block 44, T.S.Nos.4 and 5, Kodaikanal Town, Dindigul District, within a time frame stipulated by this Court.



For Petitioner

For R-1 to R-4

For R-5

: Mr.I.Sam Jegan

: Mr.VR.Shanmuganathan,
Special Government Pleader.

: Mr.T.S.Mohamed Mohideen,
Standing Counsel.

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ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

By consent, this writ petition is taken up for final disposal.

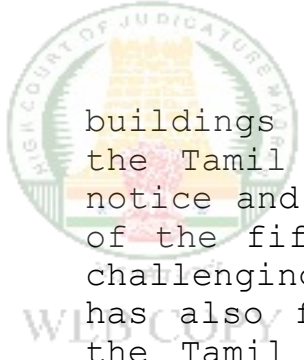
2.Mr.VR.Shanmuganathan, learned Special Government Pleader, accepts notice on behalf of the respondents 1 to 4 and Mr.T.S.Mohammed Mohideen, learned standing counsel for Kodaikanal Municipality, accepts notice on behalf of the fifth respondent.

3.The petitioner in the affidavit filed in support of the writ petition would aver among other things that the property, which is the subject matter of this writ petition, was originally purchased by his grandfather, namely, Mr.A.J.Appasamy, through a sale deed, dated 30.06.1926 together with mud-walled thatched houses bearing Door Nos.449 and 451 and it is also subjected to statutory limits by the Kodaikanal Municipality, bearing Assessment No.770. The petitioner would further aver that his grandfather had demolished one of the said houses, bearing Door No.449 and erected a tin-sheeted building in the year 1930 and used the said building for educational purpose, educating villagers and tribes and later on, the old building bearing Door No.451 has been demolished in the year 1932 and in the year 1933, a stone building has been constructed and his grandfather constructed a shelter for the school staff in the year 1940. In the year 1968, the grandfather of the petitioner leased out the buildings in favour of the Government for the purpose of running the youth hostel.

4.The petitioner would also state that his grandfather executed a Will dated 18.02.1973 in favour of his son, daughter, who is the mother of the petitioner and granddaughter, namely, Samuel Padmanathan Appasamy, Chandra Soans and Seetha Panicker respectively, and after his demise, the said persons succeeded his estate and through a partition deed, dated 18.03.2005, the property-in-question has been allotted to his mother, who, in turn, executed a registered gift deed, dated 04.07.2005, in favour of the petitioner and as such, the petitioner became the owner of the property.

<https://hcservices.ecourts.gov.in/hcservices/>

5.The grievance expressed by the petitioner is that the fifth respondent, without having note of the fact that the



buildings came into existence even prior to the implementation of the Tamil Nadu Town and Country Planning Act, 1971, had issued notice and though, the said fact was also brought to the knowledge of the fifth respondent, they have not given proper response and challenging the impugned notice, dated 28.12.2017, the petitioner has also filed a Special Revision/Appeal, under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and pending disposal of the appeal also, he filed a petition for stay, under Section 80-A(3) of the said Act and despite receipt and acknowledgment, no steps have been taken by the first respondent, either to take up the petition for stay or dispose of the Special Revision/Appeal.

6.The petitioner would further aver that in the interregnum, the fifth respondent has asked him to submit a letter seeking exemption and regularisation of the buildings, under Section 113 of the Tamil Nadu Town and Country Planning Act, 1971 and also under Section 217-Q of the Tamil Nadu District Municipalities Act, 1920 along with prescribed fee by way of demand draft and he has also submitted the same along with prescribed fee and waited for exemption and regularisation and however, steps are being taken to demolish the buildings and hence, he is constrained to approach this Court by filing this writ petition.

7.Mr.VR.Shanmuganathan, learned Special Government Pleader, appearing for the respondents 1 to 4 would submit that the petition for stay submitted by the petitioner, will be taken up at the earliest and will be given disposal, in accordance with law.

8.This Court has heard the submission of the learned standing counsel appearing for the fifth respondent also.

9.This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to take up the petition for stay filed by the petitioner pending disposal of the Special Revision/Appeal, filed under Section 80-A(3) of the Tamil Nadu Town and Country Planning Act, 1971 and give a disposal, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and till such time, the respondents 4 and 5 shall defer the further decision, in terms of the impugned notice, dated 28.12.2017. The first respondent or the delegated official of the first respondent, is also had an option to take up the main appeal and give a disposal, on merits and in accordance with law, within a further period of ten weeks, thereafter and inform the decision taken, to the petitioner. It is also open to the petitioner to press for exemption or exemption of the buildings in question before the first and fifth respondents, in accordance with law.



10. The writ petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
 2. The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
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 3. The Commissioner of Town and Country Planning,
807, Anna Salai,
Chennai-600 002.
 4. The Deputy Director,
Town and Country Planning,
4, Hakkim Ajmalkhan Road,
Chinnachokkikulam,
Madurai.
- + 1 CC TO MR.I.Sam Jegan, ADVOCATE IN SR No.46496
+ 1 CC TO MR.T.S.Mohamed Mohideen,, ADVOCATE IN SR No.46789
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.46943

MK/SV MMS/SAR-1/08.02.2018/4P/8C

ORDER MADE IN
W.P(MD)No.2398 of 2018
and
W.M.P(MD)No.2613 of 2018
06.02.2018