



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.5329 of 2018
and
W.M.P. (MD) No.5277 of 2018

R.M.Shanmuganathan

... Petitioner

-vs-

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

2.The Deputy Director of Town and
Country Planning,
No.4, Hakkem Ajmal Khan Road,
Chinna Chokkikulam,
Madurai - 625 012.

3.The Secretary,
Indian Club,
P.T.Road, Kodaikanal,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the first respondent to De-Seal the petitioner's building situated in T.S.No.15, Block-1, Ward D, Kodaikanal Town, Dindigul District and consequently to direct the 2nd respondent to consider and pass orders on the "revised planning permission" submitted by the petitioner dated 05.03.2018 within the period stipulated by this Court.

For Petitioner : Mr.N.Sathish Babu
For Respondents : Mr.T.S.Md.Mohideen for R1
Mr.V.R.Shanmuganathan,
Special Government Pleader for R2

O R D E R

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

Heard Mr.N.Sathish Babu, learned counsel appearing for the petitioner and Mr.T.S.Md. Moideen, learned counsel for the first respondent and Mr.V.R.Shanmuganathan, learned Special Government



Pleader appearing for the respondent Nos. 2. In the light of the order we propose to pass, notice to the third respondent is dispensed with.

2. The petitioner is the leaseholder of a Hotel, which is situated in Kodaikanal within premises called as "Indian Club premises". Earlier writ petitions were filed by the Indian Club to remove the seal affixed in their office building, where there was also a co-operative society functioning as their tenant. There were rival claims as to who is the Secretary of the said Club and two writ petitions were filed for an identical relief viz., W.P.(MD) Nos.1615 and 1506 of 2018.

3. Taking note of the fact that the building, which has been taken on lease by the petitioner, is wholly unauthorised, the building was directed to be sealed by issuing an interim direction to the said effect. Subsequently, W.P.(MD) Nos.1615 and 1506 of 2018 were disposed of by order dated 13.03.2018 directing de-sealing of the premises occupied by the Indian Club solely on the ground that the building is a small building and appeared to be an old construction and there was a co-operative society functioning in the first floor of the said building.

4. So far as the building, which has been taken on lease by the petitioner, it prima facie appears that there is no approved building plan especially to run a commercial establishment namely Hotel and Lodging house. Since now the building has been sealed, we give liberty the petitioner to file their objection before the first respondent, produce documents to establish that the owner of the building had obtained approved plan for establishing a Hotel and in the event the representation is given, the first respondent shall direct an inspection to be conducted of the building and then proceed to take action in accordance with law. Till then, the building shall continue to remain sealed. The above direction be complied with by the first respondent within a period of four weeks from the date on which the representation is given by the petitioner. It is well open to the petitioner to pursue their application stated to have been given for approving a revised plan.

5. This writ petition is dismissed with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar



To

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

2. The Deputy Director of Town and
Country Planning,
No.4, Hakkem Ajmal Khan Road,
Chinna Chokkikulam,
Madurai - 625 012.

+1cc to M/S.T.S.Mohamed Mohideen, Advocate SR.No. 55481
+1cc to M/S.N.Sathish Babu, Advocate SR.No. 55331
+1cc to Special Government Pleader, SR.No. 55951

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