



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2018

CORAM:

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

W.P.(MD) No.5808 of 2018
and
W.M.P.(MD) No.5669 of 2018

Vijayan Soans

... Petitioner

-VS-

The Member Secretary/Commissioner,
Kodaikanal Local Planning Authority,
Kodaikanal Municipality,
Kodaikanal.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned notice issued by the respondent dated 02.02.2018 in Na.Ka.No./Ka.Ma.No.3306/2007/F1 and quash the same as illegal and consequently direct the respondent to comply the order of this Court dated 06.02.2018 in W.P.(MD) No.2398 of 2018.

For Petitioner : Mr.I.Sam Jegan

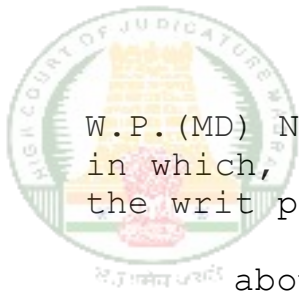
For Respondent : Mr.T.S.Md. Mohideen

O R D E R

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

Heard Mr.I.Sam Jegan, learned counsel appearing for the petitioner and Mr.T.S.Md.Mohideen, learned standing counsel appearing for the respondent Municipality.

2.The petitioner is aggrieved by a notice issued by the respondent dated 02.02.2018, which has been served on him on 14.02.2018, rejecting the petitioner's application for regularisation on the ground that it does not contain the requisite annexure. Unfortunately, the respondent Municipality did not take note of the order passed by the Division Bench in



W.P. (MD) No.2398 of 2018 dated 06.02.2018 filed by the petitioner, in which, the respondent Municipality was the fifth respondent and the writ petition was disposed of issuing the following direction:

"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 8C-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 regularisation or exemption of the buildings in question before the first and fifth respondents in accordance with law."

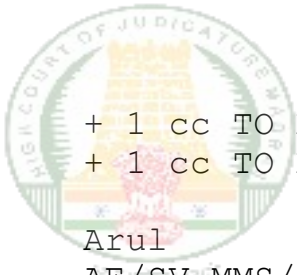
3.The learned counsel appearing for the petitioner submitted that as per the direction issued by the Division Bench, the Secretary to Government fixed the personal hearing for hearing the stay petition on 19.03.2018 and has granted an order of interim stay and the appeal will be taken up shortly.

4.It appears that the impugned notice dated 02.02.2018 has been issued without reference to the order passed by the Division Bench dated 06.02.2018. The order passed by the Division Bench being subsequent to the impugned notice dated 02.02.2018, the impugned notice cannot be enforced as on date, more so, when the Government has granted an order of interim stay.

5.Thus, for the above reason, this writ petition is disposed of by directing the respondent Municipality to keep the impugned notice in abeyance, till the disposal of the appeal petition filed by the petitioner before the State Government dated 30.12.2017, in which, it is stated that an order of interim stay was granted by the Secretary to Government on 19.03.2018. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)



+ 1 cc TO Mr.T.S.Mohamed Mohideen , Advocate in SR No. 56337
+ 1 cc TO Mr.I.Sam Jegan , Advocate in SR No.56667

Arul

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