



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.08.2017

Pronounced on : 13 .03.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.8455 of 2013

and

M.P (MD) Nos.1 to 3 of 2013

P.K.Vijaykumar

... Petitioner

vs.

1. The District Collector,
Kanyakumari District,
Kanyakumari.

2. The Commissioner,
Kuzhithurai Municipality,
Kanyakumari District.

3. The Member Secretary,
Local Planning Authority,
Kuzhithurai, Kanyakumari District.

4. The Deputy Director of Town and
Country Planning, Tirunelveli Region,
Tirunelveli.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the second respondent in his proceedings in Letter No.2371/19/2012/TPI, dated 01.10.2012 and the consequential impugned proceeding issued by the second respondent in his proceedings in Na.Ka.No.2371/19/2012/Na.A.Aa dated 29.11.2012 and quash the same as illegal and consequently forbear the respondents from in any way sealing or locking the petitioner's hospital premises in "PPK Hospital" Door No.6-36, 37 and 37-A, Main Road, Marthandam, Kanyakumari District.

For Petitioner

: Mr.M.Ajmalkhan, Sr.Counsel
for M/s.Ajmal Associates

For Respondents

: Mr.M.Govindan,
Spl.G.P. For RR1, 3 and 4
Mr.K.Vamanan for R2

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

WEB COPY The petitioner questions the impugned proceedings issued by the Commissioner, Kuzhithurai Municipality.

2.The case of the petitioner is that he put up the construction in question only after getting building permission from the local authority. While so, the second respondent has issued the impugned communication informing the petitioner that the construction in question is an unauthorised one and that therefore, requisite permission should be obtained from the local planning authority and that in the event of failure on the part of the petitioner to do so, coercive action will be taken.

3.We have heard the learned counsel on either side and perused the materials available on record.

4.The impugned communication merely calls upon the petitioner to remove the unauthorised constructions.

5.In any event, there is a statutory remedy available to the petitioner under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner without resorting to the specific remedy available under the Act, has rushed to this Court and obtained an interim order.

6.The Hon'ble Supreme Court in **Dipak Kumar Mukherjee Vs. Kolkatta Municipal Corporation (2013 (5) SCC 336)** observed that illegal and unauthorised construction of buildings and other structures not only violate the Municipal Laws and the concept of planned development of the particular area but also affect various fundamental and constitutional rights of other person.

7.The building in question is used by the public. It is a hospital. Since the public are using the building, it must have a structurally sound. There is nothing on record to see that the building was constructed in adherence to the safety standards. In any case, the local authority was correct in taking enforcement action. We are therefore of the view that there is no ground made out in this writ petition. We therefore dismiss the writ petition. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(RTI)

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Sub Assistant Registrar



To

1. The District Collector,
Kanyakumari District,
Kanyakumari.
2. The Commissioner,
Kuzhithurai Municipality,
Kanyakumari District.
3. The Member Secretary,
Local Planning Authority,
Kuzhithurai,
Kanyakumari District.
4. The Deputy Director of Town and
Country Planning,
Tirunelveli Region, Tirunelveli.

+ 1 cc TO M/S.Ajmal Associates , Advocate in SR No. 55053

AE/SV MMS/SAR1/27.04.2018/3P/6C

Order made in
W.P(MD)No.8455 of 2013
and
M.P(MD)Nos.1 to 3 of 2013
13.03.2018