



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD) No.883 of 2013

and

MP(MD)No.1 of 2013

S.Piyarijan

... Petitioner

Vs.

The Assistant Commissioner,
K.Abishekapuram Zone,
(behind Government Gandhi Hospital),
Trichirapalli City Corporation,
Pudur, Trichy - 17.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records and proceedings relating to the impugned order passed by the respondent in Na.Ka.No.F1/13887/2010 (Ko.abi) dated 06.03.2012 and quash the same.

For Petitioner : Mr.A.Thiruvadikumar

For Respondent : Mr.N.S.Karthikeyan

ORDER

[Order of the Court was made by T.RAJA, J.]

The impugned order has been issued cancelling the planning permission granted to the petitioner on 20.07.2011. When the petitioner made an application on 15.12.2010 seeking permission for putting up construction in T.S.No.72, Old S.F.No.134/5 to an extent of 1200 square feet in Inamidhar lane, Muslim Street, Crawford, Tiruchirapalli, the present impugned order dated 06.03.2012 has been issued. Assailing the same, this writ petition has been filed, inter alia stating that without issuing any prior notice, the planning permission granted on 20.07.2011 ought not to have been cancelled, when the petitioner is the owner of the property and his ownership is not even disputed by anyone. Moreover, when the application dated 15.12.2010 seeking planning permission for putting up construction in T.S.No.72 in old Survey No.134/5 was allowed and permission was granted on 20.07.2011, it is not open to the Assistant Commissioner, K.Abishekapuram Zone, to cancel the same, as it is totally flagrant violation of principles of natural justice.



2.Learned counsel appearing for the respondent also submitted that before passing the impugned order dated 06.03.2012, a notice was issued, that was refused by the petitioner.

3.Heard the learned counsel for the parties.

4.We are unable to agree with the said submission. The counter affidavit filed by the respondent shows that even after cancellation of permit, on 16.07.2012, notice under Section 296(1) of the Tiruchirapalli Corporation Act, 1994 was sent to the petitioner, that was also refused to be received. But the respondent has not produced any document whatsoever, whether any notice was issued before 06.03.2012. On the other hand, a copy of the impugned order dated 06.03.2012 was placed before us to show that before passing cancellation order, notice was sent, which also disproves their stand, as it was sent only on 07.03.2012. Therefore, finding no justification whatsoever for passing the impugned order, we are unable to support the same.

5.The second contention made by the learned counsel appearing for the petitioner that after issuing planning permission on 20.07.2011 accepting application dated 15.12.2010, without issuing notice giving any opportunity to recall the planning permission issued to the petitioner on 20.07.2011 the respondent cannot proceed, which is a clear case of arbitrariness and moreover, the reason assigned in the impugned order that the petitioner has concealed pendency of civil suit in O.S.No.1037 of 2001 also cannot be accepted, since pendency of the said suit could have been brought to the notice of the respondent, had there been any notice to the petitioner. Further, the said suit is no way connected to the petitioner's building, put up in T.S.No.72. Therefore, this writ petition stands allowed and the impugned order dated 06.03.2012 is set aside. No costs. Consequently, MP(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

+1CC to Mr.A.Thiruvadikumar, Advocate, SR.No.82129

+1CC to Mr.N.S.Karthikeyan, Advocate, SR.No. 82306

W.P. (MD) No.883 of 2013

04.09.2018

MJ

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