



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.11113 of 2019

and

W.M.P. (MD) No.8476 of 2019

Hotel Rathna Residency,
Rep. by its General Manager,
K.M.Alagappan,
109, West Perumal Mestry Street,
Madurai.

... Petitioner

vs.

The Divisional Officer,
Fire & Rescue Services,
Madurai Division,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned order issued by the Respondent in his proceedings No.O.Mu.10562/2018 dated 25.09.2018 and quash the same and directing the respondent to issue No Objection Certificate to the Petitioners Building namely "Hotel Ratna Residency" located in 109 West Perumal Meistry Street, Madurai -1.

For Petitioner : Mr.RM.Arun Swaminathan

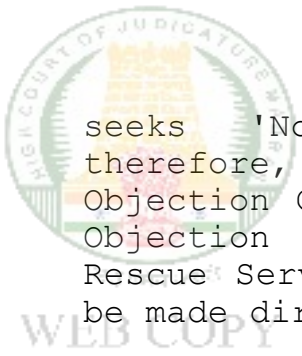
For Respondent : Mr.V.Anand,
Government Advocate.

O R D E R

The prayer sought for in this Writ Petition to call for the records of the impugned order issued by the respondent in his proceedings No.O.Mu.10562/2018 dated 25.09.2018 and quash the same and issue direction to the respondent to issue 'No Objection Certificate' to the petitioner's building namely "Hotel Ratna Residency" located in 109 , West Perumal Meistry Street, Madurai -1.

2. Heard Mr.RM.Arun Swaminathan, learned counsel appearing for the petitioner and Mr.V.Anand, learned Government Advocate for the respondent.

3. The petitioner in order to get 'No Objection Certificate from the respondent Department applied to the Divisional Officer of Fire and Rescue Services, Madurai Division and the respondent herein, has rejected the said application by his proceedings dated 25.09.2018 stating that since the building for which the petitioner



seeks 'No Objection Certificate' is a high raise building and therefore, in this context, he does not have the power to grant 'No Objection Certificate' and in those cases, the power to grant 'No Objection Certificate' is vested with the Director of Fire and Rescue Services, Madurai Division and therefore, an application can be made directly to the Director concerned.

4. However, the learned counsel for the petitioner submitted that, as per the instructions issued by the Divisional Officer, Fire and Rescue Services, Madurai Division, the applicant, whose building height is more than 17.5 meters, shall make an application to the Director for getting 'No Objection Certificate'. Since the petitioner's building is less than the said height of 17.5 meters, the said order which is impugned herein passed by the respondent is unsustainable.

5. However, the learned Government Advocate appearing for the respondent would submit that, certainly the petitioner has to apply only to the Director, who alone is empowered to grant 'No Objection Certificate' for high raise buildings like the building for which 'No Objection Certificate' is sought for by the petitioner.

6. However, the learned counsel for the petitioner would submit that, subsequent to the impugned order, when the petitioner approached the office of the respondent with an application, the officials refused to receive the application from the petitioner by stating that, as per their instructions / guidelines, the petitioner can approach the Divisional level officer for 'No Objection Certificate'.

7. The controversy, therefore, appears to be that, which Authority has to entertain the application of the petitioner for the grant of 'No Objection Certificate' for the building constructed by the petitioner.

8. However, in order to give a quietus to this issue, the learned Government Advocate appearing for the respondent submitted that, no doubt, only the Director is empowered to consider the application for the grant of 'No Objection Certificate' and therefore, if a direction is issued by this Court to that effect, based on which, the office of the Director would receive the application of the petitioner and accordingly decide the same on merits.

9. In view of the said stand taken by the learned Government Advocate appearing for the respondent, this Court is inclined to pass the following order:

"that the petitioner is hereby permitted to submit his application seeking for 'No Objection Certificate' for his building, in question, within a period of two(02) weeks from the date of receipt of a copy of this order to the Director and on making such application and on receipt



of the same, the Director of Fire and Rescue Services, Madurai Division, shall consider the same and pass orders thereon, with regard to the grant of 'No Objection Certificate' to the petitioner and such exercise shall be undertaken by the Director concerned, within a period of six (06) weeks from the date of receipt of such application from the petitioner.

10. It is made clear that, since the stand taken by the respondent that an application has to be received only by the Director of Fire and Rescue Services, Madurai Division and it has to be decided only by the Director office, if an application is given in person by the petitioner, the same shall be accepted with an acknowledgement at the office of the Director. With these directions, the Writ Petition is disposed of. No costs. Consequently, connected W.M.P.(MD) No.8476 of 2019 is closed.

Sd/-

Assistant Registrar (Ad-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Divisional Officer,
Fire & Rescue Services,
Madurai Division,
Madurai.

Copy to: The Director,
Fire and Rescue Services,
Madurai Division.

+1 CC to SPL GP SR-67841.

Order made in
W.P. (MD) No.11113 of 2019

Dated:
10.06.2019

CS: (08/07/2019) 3P 4C