



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition(MD)No.5716 of 2019

and

W.M.P. (MD).No.4509 of 2019

Mr.P.Paul Raj

.. Petitioner

Vs.

- 1.The State of Tamil Nadu
rep. by its Secretary,
Department of Housing and Urban Development,
Fort St. George,
Chennai.
 - 2.The Director of Town and Country Planning
O/o. The Director of Town and Country Planning
No.801, Anna Salai,
Chennai.
 - 3.The Regional Deputy Director of Town Planning
Tirunelveli Town Planning Authority,
Tirunelveli District,
Tirunelveli.
 - 4.The Local Planning Authoity,
rep. by the Member Secretary,
Nagercoil,
Kanyakumari District.
 - 5.The Kanyakumari Special Grade Town Panchayat,
rep. by its The Executive Officer,
Kanyakumari District.
- ..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus forbearing the respondents 2 to 5 from initiating any coercive action until disposal the application preferred by the petitioner under section 56(3) of the Town and Country planning Act, 1971 on the file of the respondent no.1 pertaining to the petitioner's property in survey Nos.597/8 at Kanyakumari Village, Agastheeswaram Taluk, Kanyakumari District within the time frame stipulated by this Honourable Court.



For Respondents

: Mr.P.Kannidevan
Addl. Govt.Pleader for RR-1 to 4
Mr.Ayiram K.Selvakumar
Addl. Govt. Pleader for R-5

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ORDER

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

The writ petition has been filed, for issuance of writ of mandamus, forbearing the respondents 2 to 5 from initiating any coercive action until disposal the application preferred by the petitioner under section 56(3) of the Town and Country planning Act, 1971 on the file of the respondent no.1 pertaining to the petitioner's property in survey No.597/8 at Kanyakumari Village, Agastheeswaram Taluk, Kanyakumari District.

2.The case of the petitioner is that he is in possession of the the building in survey No.597/8 in Kanyakumari Village, Agastheeswaram Taluk, Kanyakumari District. According to the petitioner, he is absolute owner of the property and he applied for plan approval before the fifth respondent and the same was not disposed of. The petitioner would state that on 24.01.2019, the third respondent herein issued a notice under Section 56(2A) of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred as Act), stating that the building is an unauthorized one. Aggrieved over the same, the petitioner preferred an appeal before the first respondent on 25.01.2019.

3.Mr.T.Lajapathi Roy, learned counsel for the petitioner would state that the third respondent issued the notice in pursuance of the order passed in W.P.(MD).No.7152 of 2018. When the petitioner has a statutory remedy before the first respondent and till the disposal of the application, the fourth respondent is to be restrained from taking any further action.

4.Per contra, Mr.Ayiram K.Selvakumar, learned Additional Government Pleader appearing for the fifth respondent would state that the third respondent issued the notice impugned in this writ petition to comply the order passed by this Court in W.P.(MD). No.7152 of 2018. The application of the petitioner would be considered by the first respondent in accordance with law.

5.In similar matters, including W.P.(MD).No.1368 of 2018, this Court, issued a direction to the Government to dispose of the appeal filed under Section 80-A of the Act and issued further direction to keep the order in abeyance.

6.Following the said order, the writ petition is also disposed of, directing the first respondent to pass orders in the application preferred by the petitioner, 11.02.2019, on merits and in accordance with law, within a period of two months from the date of receipt of



a copy of this order. Till such time, the order impugned in this writ petition shall be kept in abeyance. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Secretary,
State of Tamil Nadu
Department of Housing and Urban Development,
Fort St. George,
Chennai.
- 2.The Director of Town and Country Planning
O/o. The Director of Town and Country Planning
No.801, Anna Salai,
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Tirunelveli Town Planning Authority,
Tirunelveli District,
Tirunelveli.
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rep. by the Member Secretary,
Nagercoil,
Kanyakumari District.
- 5.The Executive Officer,
The Kanyakumari Special Grade Town Panchayat,
Kanyakumari District.

+1cc to Mr.T.LAJAPATHI ROY, Advocate, SR.No.53915

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VS
KK/SAR/05.04.2019/ 3P- 7C