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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH

AND

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

W.P. (MD) No. 701 of 2019

and W.M.P. (MD) No. 599 of 2019

P. Paulraj

: Petitioner

Vs.

1. The Director of Town and Country Planning,
No. 807, Anna Sala,
Chennai - 2.

2. The District Collector,
Tirunelveli,
Tirunelveli District.

3. The Member Secretary,
Local Planning Authority,
Xavier Colony,
South Ring Road,
Tirunelveli,
Tirunelveli District.

4. The Commissioner,
Tirunelveli Municipality,
Tirunelveli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the files of the third respondent pertaining to proceedings bearing Na.Ka.No.4411/18 Thi.OO.Thi.Ku dated 18.12.2018 and to quash the same and consequently direct the first respondent to pass orders on the appeal submitted by the petitioner dated 04.01.2019 within a time frame that may be fixed by this court.

For Petitioner	: Mr.A.R.Jayarhuthran
For R1 to R3	: Mr.M.Jeyakumar Additional Government Pleader
For R4	: Mr.Aayiram K.SElvakumar Additional Government Pleader

O R D E R

[Order of the Court was made by **R. SUBBIAH, J**]

This Writ Petition has been filed for issuance of writ of Certiorarified Mandamus to quash the proceedings of the third respondent in Na.Ka.No.4411/18 Thi.OO.Thi.Ku dated 18.12.2018 and for consequential direction to the first respondent to pass orders



on the appeal submitted by the petitioner dated 04.01.2019 within a time frame that may be fixed by this court.

2. Heard Mr.A.R.Jeyarhuthran, learned counsel appearing for the petitioner and Mr.M.Jeya Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.Aayiram K. Selvakumar, learned Additional Government Pleader appearing for the fourth respondent.

3. The case of the petitioner is that the petitioner proposed to construct houses admeasuring 350 sq. mt each and he has purchased the properties in Survey Nos.505 to 508 admeasuring 31 cents and the petitioner requested the third respondent for plan approval for constructing residential building in the said properties. Considering the application, the third respondent herein granted plan approval vide proceedings dated 21.02.2014 bearing building permission No.52/2014/TPPI for 3 houses, 53/2014/TPI for 3 houses, 54/2014/TPI for 3 houses, 55/2014/TPI for 3 houses, 85/2014/TPI for 3 houses, 86/2014/TPI for 2 houses, 87/2014/TPI for 2 houses and 342/21014/TPI for 6 houses. On obtaining approval from the authorities, the petitioner has commenced the construction and completed the same. While so 03.12.2018, the petitioner received a notice from the third respondent saying that action would be initiated under Section 85 of Tamil Nadu Town and Country Planning Act and also to confirm as to whether the construction made by the petitioner is in compliance with Sections 56 and 57 of Tamil Nadu Town and Country Planning Act. The petitioner submitted his explanation. After receiving the explanation, yet another communication dated 14.12.2018 was issued by the third respondent, through which, the petitioner's application for revised proposal was returned and the petitioner has resubmitted the same to the third respondent along with certain compliances. The revised plan approval was rejected by the third respondent and the petitioner was directed to demolish the alleged unauthorized construction within 30 days from the date of the said order. According to the learned counsel for the petitioner, the petitioner has obtained plan approval for 21 houses. The petitioner is the owner of the property in Survey Nos.505 to 508. There are some encroachments made by some third parties on his patta land and more than 1/3 area of the total property would be free. Hence, the petitioner has filed an appeal before the first respondent as against the rejection order and the same is pending before the first respondent.

4. Though the writ petition was filed seeking to quash the impugned order, during the course of argument, the learned counsel for the petitioner submitted that if a direction is given to the first respondent to dispose of the appeal, that would suffice. In view of the limited prayer made by the petitioner, without going into the merits of the claim of the petitioner, we are inclined to direct the first respondent to dispose of the appeal within a stipulated time. Accordingly, without traversing into the merits of



the case, we direct the first respondent to dispose of the appeal submitted by the petitioner dated 04.01.2019 within a period of six weeks from the date of receipt of a copy of this order, purely on merits and in accordance with law. Till such time, the respondents shall maintain status quo as on date.

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5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected W.M.P.(MD) No.599 of 2019 is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

CM

To,

- 1.The Director of Town and Country Planning,No.807, Anna Sala, Chennai - 2.
- 2.The District Collector,Tirunelveli,Tirunelveli District.
- 3.The Member Secretary,Local Planning Authority,Xavier Colony, South Ring Road,Tirunelveli,Tirunelveli District.
- 4.The Commissioner,Tirunelveli Municipality,Tirunelveli.

+1CC TO MR.AAYIRAM K.SELVAKUMAR, Advocate Sr. No.41549

+1CC TO MR.AR.JEYARHUTHRAN, Advocate Sr. No. 41548

Order made in

W.P.(MD)No.701 of 2019

and W.M.P.(MD) No.599 of 2019

Dated: 11.01.2019

NR(CO)

TR (24.07.2019) 3P 7C