BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.08.2019
CORAM:
THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR
W.P.(MD)No.17777 of 2019

Church of South India,
Kanyakumari Diocese
Rep.by its Bishop having office at
No.71 A, Dennis Street,
Nagercoil,
Nagercoil Village,
Agastheeswaram Taluk,
Kanyakumari District.
... Petitioner

Vs.

1.The District Collector,
Collectorate,
Kanyakumari District,
Nagercoil.

2.The Executive Officer,
Kallukoottam Town Panchayat,
Kallukoottam,
Kanyakumar District.
... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to allot building number for the purpose of assessment of building tax as per the plan approval granted by the 2nd respondent in plan approval No.15/2008-2009 for construction of a building in R.S.No.761/12 belonging to CSI Kanyakumari Diocese based on the representation dated 24.07.2018.

For Petitioner : Mr.F.Deepak
For Respondents :Mrs.J.Padmavathi Devi, Spl.G.P.for R1
Mr.M.Rajarajan for R2

O R D E R

The prayer in the Writ petition is for a Writ of Mandamus, directing the 2nd respondent to allot building number for the purpose of assessment of building tax as per the plan approval granted by the 2nd respondent in plan approval No.15/2008-2009 for construction of a building in R.S.No.761/12 belonging to CSI Kanyakumari Diocese based on the representation dated 24.07.2018.

2.Heard Mr.F.Deepak, learned counsel for the petitioner, Mrs.J.Padmavathi Devi, learned Special Government Pleader for R1 and Mr.M.Rajarajan, learned standing counsel for R2.

3.The petitioner obtained a plan permission to construct a building in plan approval No.51/2008-2009 at R.S.No.761/12 dated 11.07.2009 and accordingly, it is claimed by the petitioner that, the building was constructed. Despite the said building having been constructed, pursuant to the said plan approval given by the 2nd respondent dated 11.07.2019, the petitioner's building has not been given number ie., Town Survey number or Door number by the 2nd respondent / Panchayat. Because of non giving of number to the petitioner's house, the same has not been subjected to property tax and therefore, the petitioner facing difficulty. The petitioner seems to have given a representation on 24.07.2018 and the same since has not been considered, the petitioner has come up with this Writ petition with the aforesaid prayer.

4.I have heard the learned standing counsel appearing for the 2nd respondent, who would submit that though the plan approval was given as early as on 11.07.2009, the said planning permission was valid only for 3 years and within the said period, the building was not constructed by the petitioner and thereafter, without even filing an application to extension of such permission, without getting such extension of such permission, the petitioner seems to have constructed the building in question subsequently, and therefore, in the eye of law, it cannot be construed that the building constructed by the petitioner was inconsonance with the plan approval given by the 2nd respondent on 11.07.2009. Therefore, on that ground, the plea of the petitioner to assign the door number and for a consequential assessment of property tax, had not been undertaken by the 2nd respondent.

5.I have considered the said submission made by the learned counsel appearing for both sides and perused the materials placed before this Court.

6.No doubt there has been plan permission given by the 2nd respondent to the petitioner on 11.07.2009 and pursuant to which, it seems that the building in question has been constructed by the petitioner. However, since the plan permission was given for a period of 3 years and within the said period, it is alleged that the said building was not constructed and subsequently, by making the construction, the petitioner seems to have not made any application separately for getting renewal or extension of the said plan approval.

7.The said defect, according to the learned standing counsel for the 2nd respondent, is a fatal and that is the reason why the door number has not been given and the consequential assessment of property tax also has not been undertaken.

8.However, the learned counsel appearing for the petitioner submits that though the work of the building was started within the period of 3 years where the plan permission was given and the same could have been completed subsequently and in this regard, though representation had been given in the year 2014, the same had been kept pending and the same since was not decided in time, the blame cannot be made against the petitioner and therefore, by considering the representation subsequently given by the petitioner, the said plan period restricted to 3 years originally, can very well be extended and accordingly, the consequential action of assigning the door number and the assessment of the building can also very well be undertaken by the 2nd respondent.

9.In view of the said development as claimed by the petitioner subsequently as some applications or representations had been made in the year 2014 as well as 2018 and based on which, the 2nd respondent could have taken some decision to extent the plan approval.

10.It is not the case that the petitioner has not at all obtained the plan approval and constructed the building without any plan approval. Admittedly, plan approval was given by the 2nd respondent and the only objection raised by the 2nd respondent as projected by the learned standing counsel is that, the said plan approval was granted for a particular period and subsequently, such permission has not been properly extended. The said defect can very well be rectified as the petitioner seems to have subsequently, made application for renewal in the year 2014 and 2018. Therefore, in that view of the matter, those applications can very well be taken into account by the 2nd respondent and suitable remedial action to give extension of such plan permission after collecting necessary fee including any penalty payable by the petitioner can be taken. Such permission can be extended and accordingly, consequential follow up action namely, assignment of door number as well as the assessment of property tax on the building of the petitioner can very well be effected.

11.In that view of the matter, this Court is inclined to dispose of this Writ petition with the following direction:
That the 2nd respondent is hereby directed to consider the representations of the petitioner dated 27.10.2014, 22.08.2014, 24.07.2018 and pass orders thereon on merits and in accordance with law and once orders are passed, rectifying the construction made by the petitioner pursuant to the plan approval dated 11.07.2009, of-course beyond the permission period, necessary

follow up action in undertaking assignment of door number and the assessment of property tax can also be undertaken by the 2nd respondent in due course thereafter. The needful as indicated above shall be completed by the 2nd respondent and in this regard whatever further documents are required by the 2nd respondent, the same can also be submitted by the petitioner on receipt of notice in this regard from the 2nd respondent and ultimately final order as indicated above, shall be passed by 2nd respondent, within a period of 6 weeks from the date of receipt of a copy of this order.

12.With this direction, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

nbj

To
1.The District Collector,
Collectorate,
Kanyakumari District,
Nagercoil.

2.The Executive Officer,
Kallukoottam Town Panchayat,
Kallukoottam,
Kanyakumar District.

+1 CC to MR.F.DEEPAK, Advocate (SR-81621[F] dated 14/08/2019)

W.P.(MD)No.17777 of 2019
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KM/(30.12.2019) 4P 4C