



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.09.2019
CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P. (MD).Nos.19458 and 19468 of 2019

and

W.M.P. (MD).No.15902 and 15909 of 2019

W.P. (MD) .No.19458 of 2019

Vijaya Bank Now Bank of Baroda
Through its Senior Branch Manager,
Nagerkovil Branch,
DDJ Centre,
Vadachery, Nagercoil.

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Commissioner,
Nagerkovil Municipal
Corporation,
Nagerkovil.

... Respondents

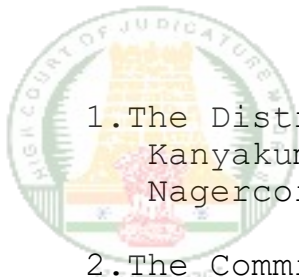
PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 01.08.2019 to the second respondent and grant one year time to vacate the premises of DDJ Centre, Vadasery, Nagercoil Corporation Limited Ward E.Block No.11, under S.No.E11-10/1 & E11-10/9, Door No.221 in an area of 1940 Sq.ft.

W.P. (MD) .No.19468 of 2019

Bank of Baroda
Through its Senior Branch Manager,
Nagerkovil Branch,
DDJ Centre,
Vadachery, Nagercoil.

... Petitioner

Vs.



1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Commissioner,
Nagerkovil Municipal
Corporation,
Nagerkovil.

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 01.08.2019 to the second respondent and 20.08.2019 to the first respondent and grant one year time to vacate the premises of DDJ Centre, Vadasery, Nagercoil Corporation Limit Ward E.Block No.11, under T.S.No.10-1, 2,9(pt) an extent of 1900 sq.ft.

For Petitioner in
both W.Ps : Mr.K.Muraleedharan
For R1 in both W.Ps : Mr.M.Murugan
Government Advocate
For R2 in both W.Ps : Mr.P.Aathimoola Pandian

ORDER

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.K.Muraleedharan, learned counsel appearing for the petitioners, Mr.M.Murugan, learned Government Advocate appearing for the first respondent and Mr.P.Aathimoola Pandian, learned counsel appearing for the second respondent.

2.By consent on either side, these writ petitions are taken up for disposal.

3.The petitioner in both the writ petitions is the Bank of Baroda, represented by its Senior Manager, Nagarkovil Branch. The petitioner in W.P.(MD).No.19458 of 2019 is Vijaya Bank, which is now merged with the Bank of Baroda. Both the branches were located in a building called DDJ Centre, Vadasery, Nagerkovil Town.

4.It is unfortunate that though the Bank is a Nationalized Bank, they did not carry out due diligence before locating their branches in the said building, which according to the respondent/Corporation is wholly unauthorized. Against the action initiated for demolition of the building, the owner of the building filed a writ petition before this Court in W.P.(MD).No.16498 of 2019 seeking to quash the order passed by the Nagerkovil Corporation dated 10.07.1996 which is an order under Sections 56 and 57 of the Town and Country Planing Act, 1970. The owner of the building sought for a further direction to direct the respondent therein not to



interfere with the peaceful possession and enjoyment of the said building. The said writ petition was disposed of by order, dated 31.07.2019 with the following directions:

"(i)The petitioner is directed to re-present the appeal before the appellate authority viz., the Director of Town and Country Planning/second respondent herein with all relevant papers within a period of two weeks from the date of receipt of a copy of this order.

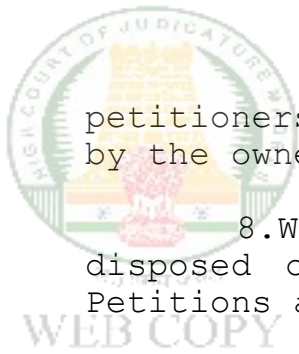
(ii)On receipt of such appeal with necessary documents, the second respondent/appellate authority shall consider the same and pass appropriate orders on merits and in accordance with law, within a period of six weeks thereafter.

(iii)Till an order is passed by the appellate authority, status-quo as on today shall be maintained by both parties."

5.In terms of the above directions, the owner of the building was required to re-present an appeal before the Appellate Authority viz., the Director of Town and Country Planning and two weeks time was fixed for doing so. On receipt of the re-presented appeal, the authorities were directed to consider and pass orders within six weeks from the date of receipt of the appeal petition. Till the Appellate Authority disposes of the appeal petition, status-quo as on the date of the order ie., on 31.07.2019 was directed to be maintained. The present attempt of the petitioner's Bank before us is to direct the respondent Corporation not to interfere with the possession of the rented premises and grant one year time to vacate the premises. As pointed out earlier, we fail to understand as to how the Nationalized Bank could have moved into an unauthorized building. Assuming that the owner of the building had approached the bank for paying advances, the first requirement would be to prove his ownership of the land and the building and that the building was constructed in terms of the approved plan. We do not wish to go further upon the conduct of the petitioner. However, considering the fact that the customers of the petitioner's bank would be affected, we permit the appellant Bank to continue to remain in possession of the extent, which they are occupying till 30.12.2019. In the event of the appeal petition filed by the building owner is dismissed, the bank shall be permitted to have their branches functioning till 30.12.2019.

6.Mr.M.Murugan, learned Government Advocate appearing for the Bank submitted that earnest and sincere efforts are being taken by the authority to find out a suitable alternate accommodation.

7.We suggest to the learned counsel that they can approach the Commissioner, Nagercoil Corporation to ascertain as to whether any building owned by the Corporation is available for locating the



petitioners Branch/Branches. This order cannot be taken advantage of by the owner of the building viz., DDJ Centre.

8. With the above directions, these Writ Petitions stand disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Commissioner,
Nagerkovil Municipal
Corporation,
Nagerkovil.

+2 CC to MR.K.MURALEEDHARAN, Advocate SR-86069, 86070

+1 CC to SPL.GP., SR-86293, 86281

W.P. (MD) .Nos.19458 and 19468 of 2019

and

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NS

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