



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.20088 of 2019
and
W.M.P (MD) No.16626 of 2019

1.S.Ramesh

2.S.Murugesh

3.S.Magesh

4.S.Pothyraj

5.S.Ashok

...Petitioners

vs.

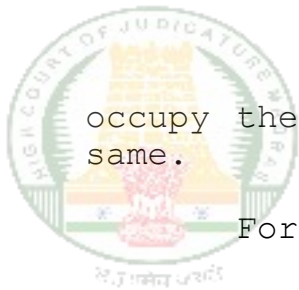
1.The Government of Tamil Nadu,
represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2.The Local Planning Authority,
represented by its Member Secretary,
Nagercoil.

3.The Commissioner,
Nagercoil Municipality,
Nagercoil.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the first respondent to consider the Petitioners revision, dated 19.2.2019 under Section 80-A as well as direction petition filed under Section 80-A(3) of the Tamil Nadu Town and Country Planning Act for de-sealing the 4th to 7th floors of the building situated at T.S.No.P2/26, 27(Part), 29, 155/1(part), Nagercoil Municipal Limit, Door Nos.161,161-A and 162, K.P.Road, Ramavermapuram, Nagercoil and consequently direct the respondents to remove the seal put up in the



occupy the same and permit the Petitioners to use and occupy the same.

For Petitioners : Mr.R.Mohan
Senior Counsel

For Respondents : Mr.M.Murugan
1 and 2 Govt.Advocate

For Respondent-3 : Mr.P.Athimoolapandian

O R D E R

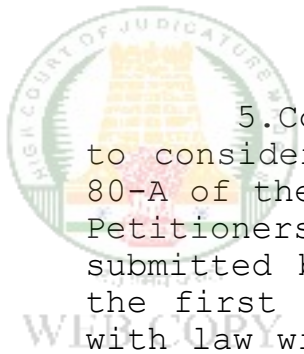
(Order of this Court was made by T.S.SIVAGNANAM, J)

Heard R.Mohan, learned Senior Counsel appearing for the Petitioners and Mr.M.Murugan, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2 and Mr.P.Athimoolapandian, learned counsel, who accepts notice for the third respondent/Municipality.

2.By consent of either side, this writ petition is taken up for disposal.

3.The Petitioners seek for a direction to the first respondent to consider the Petitioners' Revision Petition, dated 19.2.2019 filed under Section 80-A as well as the Direction Petition filed under Section 80-A(3) of the Tamil Nadu Town and Country Planning Act for de-sealing the 4th to 7th floors of the building situated at T.S.No.P2/26, 27(Part), 29, 155/1(part), Nagercoil Municipal Limit, Door Nos.161,161-A and 162, K.P.Road, Ramavermapuram, Nagercoil and consequently direct the respondents to remove the seal put up in the aforementioned property and to permit the Petitioners to use and occupy the same and permit the Petitioners to use and occupy the same.

4.According to the Petitioners, they were granted permission to put up a multi-storied building consisting of basement with seven floors and there is no violation except that additional area was constructed in 6th and 7th floors. There was no change in user in fourth and fifth floors, which was shown to be packing area and not used for that purpose. As a result of which, though the building was sealed in its entirety, as on date, the Petitioners have been permitted to use the basement, ground and three floors. 4th, 5th, 6th and 7th floors have remained sealed. In this regard, the Petitioners have moved the Government by filing a Revision Petition under Section 80-A of the Tamil Nadu Town and Country Planning Act. They have also filed an application for interim direction under Section 80-A(3) of the above 'Act' and the matter is pending before the first respondent, for disposal.



5.Considering the above facts, we direct the first respondent to consider the Petitioners' Revision Petition filed under Section 80-A of the Act and after affording an opportunity of hearing to the Petitioners and also taken into consideration the representation submitted by the Petitioners to the first respondent on 19.2.2019, the first respondent shall pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that till orders are passed by the first respondent, Floor Nos.4,5,6 and 7 shall not be put on use and the undertaking given by the Petitioners shall be binding on them and should be faithfully be followed. It is open to the third respondent to inspect the building in question to find out as to whether the Petitioners have abiding by the undertaking given by them.

6.With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

2.The Local Planning Authority,
represented by its Member Secretary,
Nagercoil.

3.The Commissioner,
Nagercoil Municipality,
Nagercoil.

+1 CC to M/s.R.MOHAN, Advocate (SR-87668[F] dated 19/09/2019)

+1 CC to M/s.SPL GP (SR-88365[F] dated 20/09/2019)

ORDER MADE IN
W.P. (MD) .No.20088 of 2019
and
W.M.P (MD) No.16626 of 2019
18.09.2019

vsn

JMN(23.09.2019) 3P : 6C

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