



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Petition (MD).No.22539 of 2019

and

W.M.P(MD)Nos.19316 & 19317 of 2019

A.Muthumeenal

... Petitioner

Vs.

1.The Commissioner,
Trichy Municipal Corporation,
Trichy.

2.The Assistant Commissioner,
Trichy Municipal Corporation,
K.Abisekapuram Zone,
Trichy.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned notice issued by the second respondent in his proceedings in Na.Ka.No.F1/14687/2018(Ko.Abi) dated 03.10.2019 is illegal.

For Petitioner : Mr.A.Chandrakumar
For Respondents : Mr.N.S.Karthikeyan

O R D E R

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

Heard Mr.A.Chandrakumar, learned counsel for the petitioner and Mr.N.S.Karthikeyan, learned standing counsel for the respondents.

2. The petitioner is aggrieved by the order passed by the respondents Corporation, dated 03.10.2019, which was pursuant to the



direction issued in a writ petition filed by the petitioner's neighbour in
W.P (MD) No.19188
of 2019 dated 04.09.2019.

3. It is the case of the petitioner that initially a planning permission was obtained by the petitioner vide application dated 25.10.2018. Based on which, approval was granted on 11.01.2019. It is stated that immediately after receiving the order dated 11.01.2019, the petitioner had submitted a revised building plan and it was not disposed of and kept pending. Thereafter, when the construction was commenced, a stop work notice dated 04.04.2019 was issued. It is thereafter, the revised planning permission application dated 26.11.2018 was rejected by the corporation on 30.05.2019. Once again, the petitioner has submitted another revised planning permission application on 08.07.2019. It is to be pointed out that the second building plan permission application is not maintainable. If at all the petitioner is aggrieved by the order dated 30.05.2019, the only remedy available to the petitioner is to file an appeal to the Government under Section 80 of the Tamil Nadu Town and Country Planning Act, 1971. In the factual position, the earlier writ petition filed by one M.G.Kulanthaiivelu was sustainable as on the said date. When the writ petition was disposed of on 04.09.2019, the petitioner did not have a valid planning permission to support the building. The learned counsel for the petitioner submitted that after 04.04.2019, the petitioner has not put up any construction.

4. Taking into account the said factual position, we deem it appropriate to give one more opportunity to the petitioner to file an appeal against the order passed by the respondents corporation dated 30.05.2019 before the Government and if such appeal is filed within a period of thirty days from the date of receipt of this order, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation. Till the appeal is pending and orders are passed, the petitioner is not permitted to put up any construction and the building shall be remained locked and sealed.

5. The learned counsel for the petitioner submitted in terms of the order passed by this Court earlier, there is a direction to the petitioner to remove the construction materials. The learned counsel for the petitioner submitted that the petitioner assured that no construction work will be carried on.

6. Considering the fact that the cement is likely to be get rocked and iron rods are likely to be get rusted, we permit the petitioner to remove the same, within a period of three weeks from today. So far as bricks and sand which have been stocked, the same is directed to be retained in the site and the undertaking of the petitioner that he will not use the same and construction work will
<https://hccservicescourts.gov.in/hccservicesn>, is recorded. Any deviation from the undertaking



given by the petitioner, will be viewed seriously.

7. With the above observation and direction, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

pm

To

1.The Commissioner,
Trichy Municipal Corporation,
Trichy.

2.The Assistant Commissioner,
Trichy Municipal Corporation,
K.Abisekapuram Zone,
Trichy.

+1 CC to M/s.A.CHANDRAKUMAR, Advocate (SR-94561[F] dated 25/10/2019)

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