

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16021 of 2020
and
W.M.P.No.19931 of 2020

V.Mohan,
Son of Varadharajan,
554/4, Kanagammal Nagar,
Kosalai Village,
Tiruvannamalai 606 601. Petitioner

Vs.

1.The Commissioner,
Tiruvannamalai Municipality,
Sannathi Street,
Tiruvannamalai 606 601.

2.M.Raj Kumari,
Wife of late K.R.S.Manika Mudaliyar,
No.7, Kumara Koil Street,
Tiruvannamalai. Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice dated 21.10.2020 in Na.Ka.No.2182/2020/F1 issued by the 1st respondent and quash the same as illegal, arbitrary and against natural justice and thereby directing the 1st respondent to consider the regularisation application dated 25.10.2018 filed by the petitioner for the property measuring an extent of 900 sq. ft. in Old S.No.1853/1A1, New Survey No.1853/22B1, situated in ward No.4, Block No.33, Manakula Vinayagar Street, Tiruvannamalai Town and District as per the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.A.Ajimath Begam

For Respondents: Mr.L.P.Maurya (for R1)
Standing counsel

ORDER

This Writ Petition has been filed challenging the impugned notice issued by the first respondent dated 21.10.2020 and for a consequential direction to the first respondent to consider the regularization application submitted by the petitioner on 25.10.2018.

2.The case of the petitioner is that he is the owner of the subject property, which was purchased by a registered sale deed dated 11.08.2010. The petitioner had also put up construction in the year 2000. The property in question is a commercial property, which has been let out to tenants for running textile shops. According to the petitioner, he has submitted an application for regularization of the building before the second respondent and no order has been passed till date. In the meantime, the impugned notice has been issued by the first respondent to lock and seal the premises.

3.Mr.L.P.Maurya, learned Standing Counsel appearing on behalf of the first respondent submitted that the petitioner has not come before this Court with clean hands. The learned counsel submitted that as early as on 19.02.2019, notice was issued to the petitioner, asking for the approved plan. The petitioner did not produce any approved plan. Therefore, a confirmation order came to be passed by the first respondent under Section 216(3) of the District Municipalities Act. The petitioner was also prosecuted under Section 317 of the Act before the Judicial Magistrate I, Thiruvannamalai in STC.No.2 of 2020.

4.The learned counsel further submitted that the petitioner had made an application before the first respondent only seeking for regularization of the unapproved plot and layout and there is no application filed for regularization of the building.

5.The learned Standing Counsel appearing on behalf of the first respondent also brought to the notice of this Court, the order passed by the Division Bench of this Court in W.P.No.1033 of 2019, dated 01.08.2019 filed by the second respondent herein and this Court had taken note of the fact that the first respondent was already taking action to lock and seal the property, since the petitioner did not produce the approved plan.

6.In the considered view of this Court, there is absolutely no ground to interfere with the impugned notice issued by the first respondent, since not a scrap of paper has been filed to show that there was an approved plan for the building that has been put up in the property. The petitioner was only seeking for regularisation of the layout and plots and there is nothing to show that the petitioner had approached the first respondent seeking for regularisation of

the building. In any event, till the building is regularised, the entire construction is illegal and therefore, this Court does not find any ground to interfere with the notice issued by the first respondent.

7.In the result, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

sai/pgp

To

1.The Commissioner,
Tiruvannamalai Municipality,
Sannathi Street,
Tiruvannamalai 606 601.

+1cc to Mr.L.P.Maurya, Advocate SR.40832

W.P.No.16021 of 2020
and
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PM(CO)
CB(18/01/2021)



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