

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.34523 of 2019

K.Mohamed Refeek ... Petitioner

Vs

1. The District Collector
Office of the District Collector,
Thiruvarur District.
2. The Assistant Director of Town Panchayat
Tanjavur Zone,
Office of the District Collector,
Tanjavur.
3. The Executive Officer,
Muthupettai Town Panchayat
Thiruvarur District.
4. H.Haroon ... Respondents

R4 impleaded as per order dated 05.02.2020
in WMP.No.555 of 2019 in W.P.No.34523 of 2019
by RPSJ & RPAJ

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to open the lock and seal of the building comprised in Survey No.114/9, 114/9Q measuring to an extent of 2400 sq.ft situated at Muthupettai Town, Thiruthuraipoondi Taluk, Thiruvarur district and to allow the petitioner to use the building for residential purpose as per the plan for residential building (without prayer hall) submitted to the 3rd respondent within a time period framed by this Court.

For Petitioner :Mr.A.Rajamohamed

For Respondents :Mr.V.Jayaprakash Narayanan
Government Pleader for R1 to R3
Mr.L.Chandra Kumar for R4

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to open the lock and seal of the building comprised in Survey No.114/9, 114/9Q, measuring an extent of 2400 sq.ft situated at Muthupettai Town, Thiruthuraipoondi Taluk, Thiruvarur District and to allow the petitioner to use the building for residential purpose as per the plan for residential building (without prayer hall) submitted to the 3rd respondent within the time that may be stipulated by this Court.

2. When the matter is taken up for hearing, one Mr.H.Haroon filed a petition to implead himself as a party respondent. The said H.Haroon is a neighbour of the petitioner. He is hereby impleaded as fourth respondent.

3. The learned counsel for the fourth respondent has filed an affidavit stating that the petitioner cannot use the building as per the plan for residential purpose, because it was constructed by violating the planning permission. Further, the learned counsel for the fourth respondent submitted that the petitioner has made a request before the District Collector for use of building comprised in Survey Nos.114/9, 114/9Q for religious purpose and the same was rejected stating that unless the petitioner challenges the planning permission, the petitioner cannot seek any remedy. However the District Collector himself had stated that the petitioner cannot use the building for religious purpose and if he is willing to use the same for official purpose, he has to approach the Executive officer, Town Panchayat, Muthupettai and he further directed the Executive Officer to follow the norms and provisions instructed in the Tamil Nadu District Municipalities Building Rules, 1920 and Tamil Nadu District Municipalities Building Rules, 1972 while considering the same. Thus the learned counsel for the fourth respondent submitted that the petitioner had already submitted a representation to the Executive Officer and the Executive Officer may be directed to consider his representation as per the direction given by the District Collector in the order dated 25.06.2018, which would suffice.

3. In view of the above facts and circumstances, without going into the merits of the case, this Court directs the third respondent to consider the representation of the petitioner dated 02.05.2019 in the light of the order passed by the District Collector dated 25.06.2018, by affording an opportunity of personal hearing to the petitioner as well as to the impleaded fourth respondent, namely H.Haroon and pass orders on merits and in accordance with law. The entire exercise shall be carried out within a period of four weeks from the date of receipt of a copy of this order.

4. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
Office of the District Collector,
Thiruvarur District.
2. The Assistant Director of Town Panchayat
Tanjavur Zone,
Office of the District Collector,
Tanjavur.
3. The Executive Officer,
Muthupettai Town Panchayat
Thiruvarur District.

+1 cc to M/s.L.Chandrakumar,advocate,sr.9588

+1 cc to M/s.v.Jayaprakash Narayanan, Advocate,sr.9699

+4 cc's to M/s.A.Raja Mohamed, Advocate,sr.9017

bp(co)
krd 3/9

W.P.No.34523 of 2019

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