



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

CORAM

THE HONOURABLE **MR. JUSTICE S. S. SUNDAR**

and

THE HONOURABLE **MRS. JUSTICE T. KRISHNAVALLI**

W.P (MD) No. 5553 of 2020

and

W.M.P. (MD) Nos. 4856 to 4858 of 2020

The Oriental Insurance Company Limited,
represented by its Regional Manager,
Vadaseri, Nagercoil, Kanyakumari District.

: Petitioner

Vs.

1.State of Tamil Nadu,
represented by its Secretary,
Department of Town and Country Planning,
St.George Fort, Chennai.

2.The Director,
Department of Town and Country Planning,
Anna Salai, Chennai.

3.The Nagercoil Local Planning Authority,
represented by its Member Secretary
(District Collector),
Collectorate, Nagercoil,
Kanyakumari District.

4.The Nagercoil Corporation,
represented through its Commissioner,
Nagercoil,
Kanyakumari District.

: Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.No.1241/2019Navuthiku, dated 11.03.2020 under Section 56(2A) and 57(4) of Town and Country Planning Act and quash the same and consequently grant one year for vacating the premises occupied by the petitioner company, a portion having carpet area 1445 sq.ft., on the south west in the first floor (above the basement floor) of the D.D.J.Centre, Commercial Complex, situated in No.214, DDJ Centre, Vadasery, Nagercoil-1, Kanyakumari District.



For Petitioner

: Mr. K. Bhaskaran

For R1 to R3

: Mr. VR. Shanmuganathan
Special Government Pleader

For R4

: Mr. P. Athimoolapandian

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ORDER

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

This Writ Petition is filed for to quash the impugned order, dated 11.03.2020 and to grant one year time to vacate the premises occupied by the petitioner company.

2. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. Though the Writ Petition is for issuing Writ of Certiorari to Mandamus to quash the impugned order passed by the third respondent, dated 11.03.2020, the learned Counsel for the petitioner submitted that the petitioner will be satisfied, if time is given to the petitioner to vacate the premises occupied by the petitioner company.

3. This Court has earlier granted time to vacate the premises in respect of other tenants in the following lines:

"6. Considering the grievance of the petitioner and the submission of the learned Counsel for the first respondent, this Court is of the view that the matter need not be decided based on legal submissions. The fact remains that the petitioner is in possession and enjoyment of the building for a long time, as a tenant carrying on business. The petitioner must have invested heavy amount. Unfortunately, the building is facing demolition for want of proper approval. The application submitted by the second respondent for regularisation has been turned out by the Town and Country Planning Authorities. It is also brought to notice of this Court that building is constructed in a land, which forms part of Government poramboke lands where a water channel is running.

7. In such circumstances, we do not expect the Government or the authorities under the Town and Country Planning Department to regularise the construction. It is only in the said context, the learned Counsel for the petitioner submitted that the petitioner will be put



painful, it cannot be avoided in cases of this nature. However, tenants, who have taken the property on lease for commercial venture, are greatly affected for no fault on them. Hence, some lenience can be shown in the case of petitioner, as it was shown by this Court earlier in the case of M/s. Vijaya Bank.

8. Considering the grievance of the petitioner and the nature of business run by the petitioner, two months time from today is given to the petitioner to vacate the premises. No further extension can be sought for by the petitioner on any ground. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed. This order cannot be taken advantage of by anyone including the second respondent."

4. Following the same and also considering the limited scope of prayer sought by the learned Counsel for the petitioner, this Writ Petition is disposed of accordingly. Two months time from 05.03.2020 is given to the petitioner to vacate the premises. No further extension can be sought for by the petitioner on any ground. This order cannot be taken advantage of by anyone including the owner of the building. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ / 2020

Sub Assistant Registrar (CS)

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To

1. The Secretary,
The State of Tamil Nadu,
Department of Town and Country Planning,
St. George Fort, Chennai.

2. The Director,
Department of Town and Country Planning,
Anna Salai, Chennai.



3. The Member Secretary / District Collector,
The Nagercoil Local Planning Authority,
Collectorate, Nagercoil,
Kanyakumari District.

4. The Commissioner,
The Nagercoil Corporation,
Nagercoil, Kanyakumari District.

+2 CC to M/s. K. BASKARAN, Advocate (SR-11839[F] dated 16/03/2020)

+1 CC to M/s. SPL. GP (SR-12029[F] dated 17/03/2020)

W.P. (MD) No. 5553 of 2020
16.03.2020

NA (CO)
TR (27.05.2020) 4P 8C