



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.7577 of 2020

and

W.M.P (MD)Nos.7064, 7066 & 7067 of 2020

R.Sivaraman,
represented by his
Power of Attorney,
M.S.Raju

... Petitioner

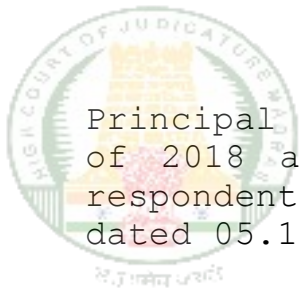
Vs.

- 1.The District Collector,
Tiruchirappalli.
- 2.The Revenue Divisional Officer,
Tiruchirappalli.
- 3.The Tahsildar,
Tiruchirappalli West Taluk,
Tiruchirappalli.
- 4.The Member Secretary,
Office of the Local Planning Authority,
Kajamalai Main Road,
Tiruchirappalli - 20.
- 5.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli - 1.
- 6.The Joint Sub Registrar No.1,
Tiruchirappalli.

- 7.S.Diveeganathan
- 8.Aathilakshmi
- 9.Karthik

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the fourth respondent in



Principal Layout Approval in Ma.Va(VARANMURAI) TE U TE KU No.166 of 2018 and quash the same and consequently, direct the fifth respondent to cancel the DTCP Approval given in No.8859 of 2018, dated 05.10.2018.

For Petitioner : Mr.R.S.Sivaram

For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader
for R.1 to R.4 & R.6

Mr.N.S.Karthikeyan
Standing Counsel for R.5

* * * * *

ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner makes a challenge to the impugned order passed by the fourth respondent, in and by which, Layout Approval has been granted in favour of the private respondents.

2. When the matter was listed for hearing on 23.07.2020, this Court has put up a question as to the availability of alternative remedy and adjourned the matter.

3. When the matter is listed today (04.08.2020), it is brought to the knowledge of this Court that the petitioner is having an effective alternative remedy under Section 80 of the Tamil Nadu Town and Country Planning Act, 1971.

4. Learned Counsel for the petitioner would submit that the petitioner has not been put on notice before passing of the impugned proceedings in favour of the private respondents and immediately on becoming aware of the same, filed the writ petition making a challenge to the said order and prays for appropriate direction to condone the delay with liberty to the petitioner to prefer a revision within a stipulated time frame, with a further direction to give disposal of the revision on merits and in accordance with law.

5. Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 4 and 6, would submit that admittedly, the impugned proceedings came to be passed on 30.08.2018 and it is always open to the petitioner to file an application for condonation of delay by explaining proper, sufficient and tenable reasons.



6. This Court has carefully considered the rival submissions and perused the materials placed on record.

7. Though the petitioner made attempts to canvass the merits of the matter, this Court is not inclined to go into the same for the reason that he is having an effective alternative remedy under Section 80 of the Tamil Nadu Town and Country Planning Act, 1971 and if any observations are made touching upon the merits of the matter, it may prejudice either the case of the petitioner or the private respondents.

8. At this juncture, the learned Counsel for the petitioner undertakes to send an e-mail to the Registry praying for withdrawal of this writ petition with liberty to avail the alternative remedy.

9. In the light of the same, this writ petition is **dismissed as withdrawn** and liberty is granted to the petitioner to avail the alternative remedy under Section 80 of the Tamil Nadu Town and Country Planning Act, 1971. Since it is the claim of the petitioner that he was not put on notice and that the principles of natural justice have not been adhered to, he is always at liberty to file a petition for condoning the delay and put forth reasons for condonation of delay before the revisional authority, who, on receipt of the same, shall put the concerned persons on notice and give a disposal of the petition for condonation of delay on merits and in accordance with law. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

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SRK(CO)

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