



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD)No.8611 of 2020

Subburaman

... Petitioner

Vs.

The Commissioner,
Aranthangi Municipality,
Aranthangi,
Pudukkottai District.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to remove the lock and seal of the petitioner's building situate in T.S.No.20 of Aranthangi Municipality, Pudukkottai District, to put up the construction as per the plan approved by the respondent in his order in No.108/BL/2020/00047, dated 06.05.2020 by considering the petitioner's representation dated 26.05.2020.

For Petitioner : Mr.K.Baalasundharam

For Respondent : Mr.P.Mahendran

* * * * *

ORDER

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

By consent, the writ petition is taken up for final disposal and is disposed of by this order.

2. One R.R.Premkumar has filed a writ petition in W.P(MD) No.16816 of 2018 on the ground that the petitioner herein had unauthorisedly encroached upon the temple property and put up a construction of a marriage hall without obtaining any planning permission or licence. He also filed another writ petition in W.P (MD)No.23716 of 2018 seeking a writ of Mandamus to direct the respondents 1 and 2 therein to lock and seal the building illegally constructed by the petitioner herein. The same person, on an earlier occasion also, filed W.P(MD)No.4988 of 2018 praying for appropriate orders to remove the unauthorised construction put up by the petitioner herein and it was disposed of on 08.03.2018 and in



compliance of the said order, the local body, namely, the Commissioner, Aranthangi Municipality, Aranthangi, Pudukkottai District, issued appropriate proceedings as to the unauthorised construction put up by the petitioner herein.

3. The jurisdictional Revenue Divisional Officer had also passed the proceedings dated 17.04.2018, in and by which, the licence granted to the Marriage Hall was also cancelled. The petitioner herein made a challenge to the order passed by the Revenue Divisional Officer, by filing W.P(MD)No.12205 of 2018 and the said writ petition as well as the writ petitions filed by the said R.R.Premkumar in W.P(MD)Nos.16816 of 2018 and 23716 of 2018 as to the initiation of appropriate action to demolish the said unauthorised construction, were taken up together and disposed of by a common order dated 15.10.2019. The Division Bench of this Court, after taking note of the relevant facts and circumstances of the case, found that no approval could have been granted by the Tahsildar, Aranthangi Taluk for using the building as a Marriage Hall and accordingly, quashed the said proceedings dated 05.12.2017 and directed to put up lock and seal and also granted liberty to the petitioner to work out his remedy in the manner known to law.

4. Mr.K.Baalasundharam, learned Counsel for the petitioner would submit that in the light of the lock and seal put up, the Marriage Hall premises are no longer used for commercial purposes and the petitioner, on advice, has also submitted a new planning permission by applying through Online vide Assessment No.108/013/00276 to the Commissioner, Aranthangi Municipality, seeking for new planning permission and vide proceedings bearing No.108/BL/2020/00047, dated 06.05.2020, granted planning permission to the petitioner and accordingly, he is going to demolish the building and put up a new superstructure strictly in accordance the said planning permission without any deviation and therefore, prays for appropriate orders for lifting the lock and seal.

5. The learned Standing Counsel for the respondent Municipality would submit that in compliance of the earlier orders, lock and seal has been put and it remains as on date and in the light of the fact that the petitioner had applied for fresh planning permission and that necessary approval has also been accorded, this Court may pass appropriate orders by taking note of the subsequent developments and also assures that as and when the petitioner commences the construction pursuant to the new planning permission, regular and surprise inspection will be caused as to whether the construction is proceeding strictly in accordance with the sanctioned plan and if any infraction/violation is noted, the consequences on account of the same to follow in accordance with law.

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



7. In the light of the fact that the respondent Municipality had accorded planning permission, vide order dated 06.05.2020, this Court is of the considered view that the lock and seal put up on the premises in question pursuant to the common order dated 15.10.2019 made in W.P(MD)Nos.12205, 16816 and 23716 of 2018, is to be lifted. Since the petitioner had applied and got new planning permission/licence, he is expected to proceed with the construction strictly in accordance with the sanctioned plan without any deviation whatsoever. It is also open to the respondent Municipality to cause regular or surprise inspection as to whether the construction is being made strictly in accordance with the sanctioned plan and if any unauthorised deviation or infraction is noted, they are expected to take immediate, necessary and appropriate action in accordance with law.

8. In view of the above, the respondent is directed to lift the lock and seal put up on the premises in question within a period of three weeks from the date of receipt of a copy of this order.

9. This writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar

// 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.

W.P. (MD)No.8611 of 2020

06.08.2020

CS (19.08.2020) 3P 1C