



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P(MD)No.25103 of 2019

Hotel Kodai Inn,
Rep. by its Proprietor,
Parani.

... Petitioner

-vs-

1.The Secretary,
Housing and Urban Development Department,
Secretariat,
St.George Fort,
Chennai.

2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents, more particularly, the first respondent to consider the petitioner's application dated 22.03.2019 for regularization/approval of the building in Door No.12/6-23, Ward D, Block No.27, Town Survey No.18/1 Part, Kodai Gate compound within Kodaikanal Municipality limit for running Hotel and Lodging after conducting due enquiry within a time frame.

For Petitioner : Mr.D.Venkatesh
For R - 1 : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader.
For R - 2 : Mr.T.S.Mohammed Mohideen,
Standing Counsel.

O R D E R

[Order of the Court was made by M.DURAI SWAMY, J.]

The petitioner has filed the above writ petition to issue a writ of Mandamus, directing the first respondent to consider the petitioner's application dated 22.03.2019 for regularization/approval of the building in Door No.12/6-23, Ward D,



Block No.27, Town Survey No.18/1 Part, Kodai Gate compound within Kodaikanal Municipality limit for running Hotel and Lodging after conducting due enquiry within a time frame.

2.Admittedly, it is not in dispute that the petitioner was issued with a notice under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and the property in dispute was also locked and sealed on 01.03.2019. Notice was issued on 09.03.2011. However, the petitioner has not challenged the locking and sealing notice by way of an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, so far.

3.The learned counsel appearing for the petitioner submitted that the petitioner would file an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, challenging the locking and sealing notice in accordance with law. Further, the learned counsel submitted that it would be suffice to direct the first respondent to consider the same and pass orders in accordance with law.

4.Mr.T.S.Mohammed Mohideen, learned counsel appearing for the second respondent submitted that the remedy open to the petitioner is only to file an appeal as against the sealing of the premises on 01.03.2019.

5.In these circumstances, it is open to the petitioner to challenge the sealing of the premises on 01.03.2019 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and if such an appeal is preferred by the petitioner, the first respondent shall decide the same on merits and in accordance with law.

6.With these observations, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ps

To

1.The Secretary,
Housing and Urban Development Department,
Secretariat,

<https://hcservices.tn.gov.in/hcservices>, Chennai.



2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

+1 CC to Mr.D.VENKATESH, Advocate (SR-3280[F] dated 28/01/2020)
along with Crl.OP(MD)Nos.25109&25110
+1 CC to Mr.T.S.MOHAMED MOHIDEEN, Advocate (SR-3326[F] dated
28/01/2020)
+1 CC to SPL.GP (SR-3338[F] dated 28/01/2020)

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(1/3)

MK (11.02.2020) 3P 6C