

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

W.P.No.19436 of 2020

Germanus Springs,
(A Unit of MJR Hospitality and Service Apartments)
rep.by its Partners,
1. M.Joseph Rathinasamy
2. J. Maria Antonio
19/138-4, Chellapuram,
Kodaikanal,
Dindigul District.

.... Petitioner

..Vs..

1. The State of Tamil Nadu
rep.by its Principal Secretary to Government
Housing and Urban Development Department,
Secretariat,
Chennai 600 009.
2. The Principal Secretary to Government,
Municipal Administration and Water Supply Department
Secretariat,
Chennai - 600 009.
3. The Director of Town and Country Planning
No.807, Anna Salai,
Chennai 600 002.
4. The District Collector,
Dindigul,
Dindigul District.
5. The Deputy Director of Town and Country Planning
No.4, HAK Street, Chinna Chokkikulam,
Madurai - 625 002
Madurai District.
6. The Deputy Director of Town and Country Planning
Dindigul,
Dindigul District.

7. The Member Secretary/Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to consider the Review petition of the petitioners dated 19.03.2019 and consequential representation of the petitioners dated 17.02.2020 and pass suitable order on the same as per the Rule 13 of Master Plan (Preparation, Publication and Sanction) Rules with regard to Kodaikanal Master Plan Map 2021 and issue errata to the Kodaikanal proposed Master Plan 2021 by including the petitioners' survey Nos.T.S.31 & 35 in the multi use zone.

For Petitioner : Mr.G.Elanchezhian
For Respondents: Mr.D.Venkatesan
Govt.Advocate for R1 to R6
Mr.T.S.Mohamed Mohideen
Standing Counsel for R7

ORDER

This writ petition is filed for a mandamus directing the first respondent to consider the review petition of the petitioner dated 19.03.2019 and consequential representation dated 17.02.2020 and for passing necessary order as per the Rule 13 of Master Plan (Preparation, Publication and Sanction) Rules with regard to Kodaikanal Master Plan Map 2021 and for issuing necessary errata in this regard.

2. The petitioner is a company represented by its partners viz., M.Joseph Rathinasamy and J.Maria Antonio. The case of the petitioners is that they had constructed a building in Ward No.A, Block No.4, Town Survey No.31 of the Kodaikanal Municipality and running the same as a Hotel and Restaurant in the name and style of Germanus Springs. The Commissioner Kodaikanal Municipality has also granted building permission for the said building. However, the zone in which the building is constructed is classified as a primary residential zone as per the Master Plan 1993 and in the year 2016 a draft modified master plan was published by the seventh respondent, in which this petitioners land was classified as primary residential zone instead of multi use zone without verifying the ground of reality and development in the area. The petitioners and others have made a request to the first respondent for conversion of land and the respondent Municipality has also passed a

Resolution No.66 dated 05.01.2018 and submitted the Resolution for land conversion to the Deputy Director of Town and Country Planning (i/c), Madurai. The Deputy Director of Town and Country Planning has also forwarded the same to the Government and the same is still pending under consideration of the first respondent along with the said Resolution. The Kodaikanal Municipality has also enclosed a list of Panchayatats who have consented for Master plan and the petitioners property in Ward A, Block 4 T.S.No.31 is also included by specifying the land use with a proposal for conversion that this T.S.No.31 may be changed from primary residential zone to multi use zone.

3. Mr.T.S.Mohammed Mohideen, learned Standing Counsel for the seventh respondent Kodaikanal Municipality opposed the maintainability of the writ petition itself by referring the order passed by the Madurai Bench of Madras High Court in WP (MD).No.914 of 2018. The Kodaikanal Municipality has taken action as against the buildings constructed deviating the approved plan and the petitioners and similar other 94 persons have filed a batch of writ petitions before the Madurai Bench of Madras High Court challenging the order of the Kodaikanal Municipality and the same were taken up together in W.P.(MD). No.914 of 2018 and this Court directed the municipality to lock and seal all the premises. Accordingly all the premises are under the lock and seal including the petitioners premises. According to Mr.Mohamed Mohideen, learned Standing Counsel, the said writ petition is still pending before the Madurai Bench of Madras High Court and the Court is issuing continuous mandamus on this issue and therefore the petitioners ought to have filed this writ petition only before the Madurai Bench of Madras High Court and therefore he has objected for entertaining this writ petition.

4. Mr.G.Elanchezhiyan, learned counsel for the petitioner, by relying on the Resolution passed by the Kodaikanal Municipality, made his submission that the issue involved in this writ petition is for necessary orders on the application filed by the petitioners on land conversion which has also been accepted by the Municipality and a Resolution has also been passed by the Municipality recommending for conversion of the land. This Resolution has been specifically forwarded to the Deputy Director of Town and Country Planning and to the Government and it is under consideration by the Government and therefore the land conversion is within the domain of the Government and the Secretary is within the jurisdiction of this Court and therefore this writ petition is rightly filed before this Court.

5. The learned counsel for the petitioner also relied upon several judgments of the Hon'ble Supreme Court that when a part

of the cause of action arises from the jurisdiction of this Court, this Court can entertain the writ petition.

6. This Court paid its anxious consideration to the rival submissions made and perused the materials produced before this Court.

7. The relief sought for in this writ petition is for a direction to the first respondent to consider the review petition of the petitioners dated 19.03.2019 and consequential representation dated 17.02.2020.

8. The review petition appears to be pending from the year 2019. Without expressing anything on the merits of the review petition pending before this Court, this Court disposes of the writ petition with a direction to the first respondent to dispose of the review petition pending on the file of the first respondent within a period of eight weeks from the date of receipt of a copy of this order. While considering the same, the first respondent shall also consider the order passed by the Madurai Bench of Madras High Court in W.P.No.914 of 2018 and batch. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dpq
To

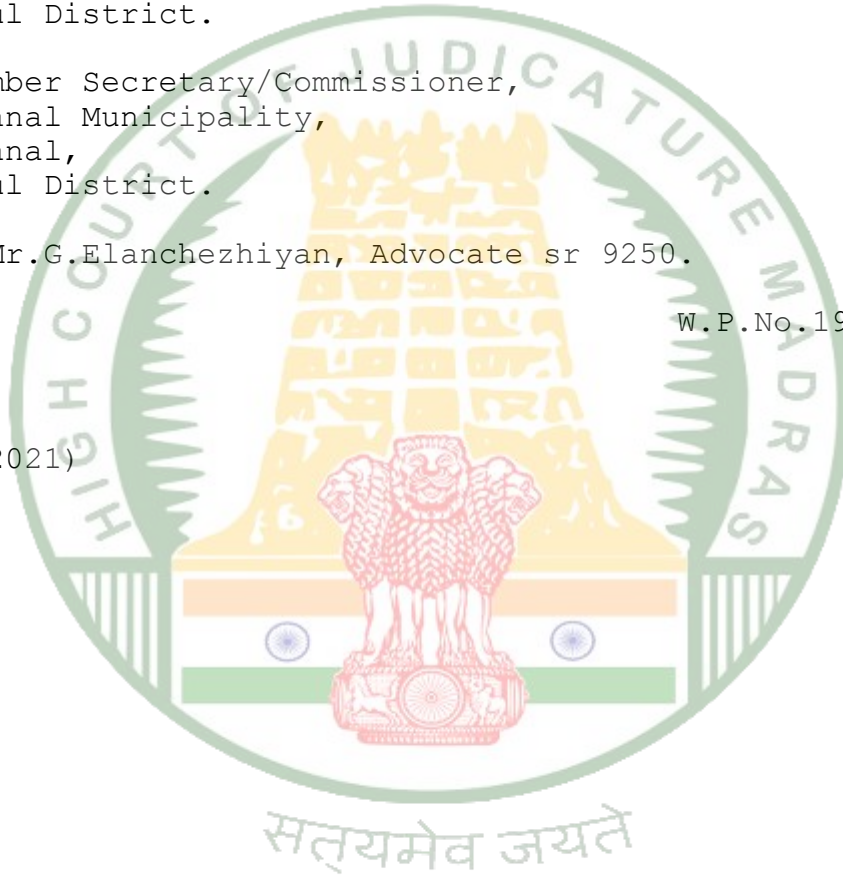
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+1 CC to Mr.G.Elanchezhiyan, Advocate sr 9250.

W.P.No.19436 of 2020

RGN(CO)
SP(17/03/2021)



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