



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.7598 of 2020

WEB COPY

R.Ezhilvathani

... Petitioner

Vs.

- 1.The Secretary to Government,
Housing & Urban Development Department,
Secretariat,
Chennai.
- 2.The Regional Deputy Director,
Madurai Region,
Town and Country Planning,
Madurai.
- 3.The Member Secretary/Commissioner,
Kodaikanal Local Planning Authority,
Kodaikkanal Municipality,
Kodaikkanal,
Dindigul District.
- 4.The Director of Town and Country Planning,
Opposite to LIC,
Chengalvarayan Building,
4th Floor, No.807,
Anna Salai,
Chennai - 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to re-classify the lands in Ward No.C, Block No.11, T.S.No.38/2A1B & 38/8, Bear Sola Road, Kodaikanal Town, Dindigul District and Multi Use Zone or Commercial Zone on the basis of the representation of the petitioner dated 16.05.2020 within a time frame fixed by this Hon'ble Court.

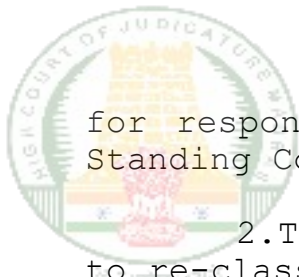
For Petitioner	:	Mr.B.Saravanan
For Respondents 1, 2 and 4	:	Mr.R.Baskaran Standing Counsel for Government
For Respondent No.3	:	Mr.T.S.Mohammed Mohideen Standing Counsel

O R D E R

(Order of the Court was made by T. S. SIVAGNANAM, J.)

Heard Mr.B.Saravanan, learned counsel for the petitioner,
Mr.R.Baskaran, learned Standing Counsel for Government, appearing

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for respondent Nos.1, 2 & 4 and Mr.T.S.Mohammed Mohideen, learned Standing Counsel for respondent No.3.

2.The petitioner seeks for a direction upon the respondents to re-classify the lands in Ward No.C, Block No.11, T.S.No.38/2A1B & 38/8, Bear Sola Road, Kodaikanal Town, Dindigul District and Multi Use Zone or Commercial Zone on the basis of the representation of the petitioner dated 16.05.2020 within a time frame.

3.The petitioner's case is that originally the land in which the petitioner has put up the construction was classified as Mixed Residential Zone, but in the subsequent Master Plan, which was published, the land was re-classified as Agricultural Zone. Therefore, the petitioner sought for re-classification as Mixed Residential Zone. In this regard, the petitioner has made a representation dated 16.05.2020, which is pending before the first respondent.

4.Pursuant to the direction of this Court on an earlier occasion, the Commissioner, Kodaikanal Municipality has filed a report, which reads as follows:

"I humbly submit that as per the order of Honourable High Court I inspected the property which is the subject matter in Writ Petition W.P.(MD) No.7598 of 2020 on 17.07.2020 along with Town Planning Staffs. The property was de-sealed and we entered the property and measured the property and took photographs which are part and parcel of the report.

1) As per the building plan approval the building must be with the following measurement: (T.S.No.38/2A1B)

- a) Height of the building 6.95 metres.
- b) Ground floor 60 Sq.m.
- c) First floor 60 Sq.m.
- d) Total floor area 120 Sq.m.
- e) Open space 93 Sq.m.
- f) Plot coverage 23%.

2) As of now the deviation of the building is as hereunder: (T.S. No.38/2A2 & 38/2A1B).

The petitioner and his wife R.Ezhilvathani have Raised a Combined Lodge building by name Ezhil Residency.

- a) Ground floor 142.50 Sq.m.
- b) First floor 336.30 Sq.m.
- c) Second floor 336.30 Sq.m.
- d) Third floor 199.50 Sq.m.
- d) Total floor area 1014.60 Sq.m.
- f) Required open space is not available.

3) As per the building plan approval the building must be with the following measurement: (T.S.No.38/8)

- a) Height of the building 6.95 metres.
- b) Ground floor 76.42 Sq.m.



- c) First floor 60.52 Sq.m.
- d) Total floor area 136.94 Sq.m.
- e) Open space 186.80 Sq.m.
- f) Plot coverage 30%.

4) As of now the deviation of the building is as hereunder: (T.S. No.38/8).

- a) Height of the building 10 meters.
- b) Ground floor 96.12 Sq.m.
- c) First floor 144.18 Sq.m.
- d) Second floor 185.12 Sq.m.
- e) Total floor area 425.42 Sq.m.
- f) Required open space is not available.

5) The buildings lies in Survey Ward C, Block 11, T.S.No.38/2A1B, 38/2A2 & 38/8 at Bear shola road which is previously a Mixed Residential Zone and currently in Agricultural Zone.

6) The entire building is in violation of building plan approval and master plan. After inspection the building is sealed."

5.In terms of the above report, the land as on date is classified as Agricultural Zone and the building has been sealed. Admittedly, the procedure for reclassification of a land is very detail procedure, which required to be followed after notice to all concerned and stakeholders. However, this is a matter to be done by the first respondent after getting a report from the respondent Municipality.

6.Accordingly, we dispose of the Writ Petition with a direction to the first respondent to consider the representation of the petitioner dated 16.05.2020 and pass order on merits and in accordance with law. It is needless to say that Kodaikanal Municipality should be directed to submit a report with all relevant materials, including map. Till the order is passed, the building shall remain under lock and seal. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Secretary to Government,
Housing & Urban Development Department,
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Chennai.

2.The Regional Deputy Director,
Madurai Region,
Town and Country Planning,
Madurai.

3.The Director of Town and Country Planning,
Opposite to LIC,
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4th Floor, No.807,
Anna Salai,
Chennai - 600 002.

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

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-
21076[F] dated 02/07/2021)

W.P. (MD) No.7598 of 2020
02.07.2021

KMK(CO)
KB(13.07.2021) 4P 6C