



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)NO.1585 OF 2021

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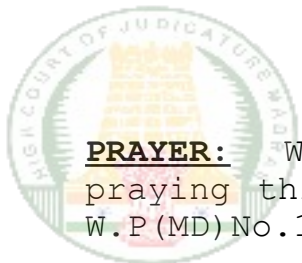
Tenkasi Bazaar Jumma Pallivasal Jamath
represented by its President,
Haji M.S.Haja Maideen,
Opposite to Court,
Tenkasi,
Tirunelveli District
(Now New District of Tenkasi)

:Appellant/Petitioner

.vs.

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
(Now New District of Tenkasi)
Tenkasi.
- 2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli,
(Now New District of Tenkasi),
Tenkasi.
- 3.The Revenue Division Officer,
Tenkasi,
Tirunelveli District
(Now New District of Tenkasi).
- 4.The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.
(Now New District of Tenkasi)
- 5.Solaikannan
- 6.Kumar
- 7.Arulmighu Kasivishwanathaswamy Temple,
Tenkasi,
thorugh its Executive Officer,
Tirunelveli District
(Now New District of Tenkasi)

: Respondents/Respondents



PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.16969 of 2014, dated 30.04.2021.

Prayer in WP(MD). 16969 of 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondents order in No. Pa. Mu.E2/733/2012 dated 14.09.2014 and quash the same and direct the 1st respondent to issue NO objection certificate to reconstruct the mosque of Tenaksi Bazar Jumma Pallivasal by removing the existing old structure situated at No. 35, Amman Sannathi Street, Opposite to Tenkasi Sub Court, Tenkasi 627 811 , Tirunelveli District by getting plan approval from the 3rd respondent and pass such further or other orders.

For Appellant : Mr.M.Ajmal Khan
for Mr.A.Haja Mohideen

For Respondents : Mr.Veerakathiravan
1 to 3 Addl.Advocate General
for Mr.P.Thilakkumar
Government Pleader

For Respondent-4 : Mr.P.Athimoolapandian

For Respondent-5 : No appearance

For Respondent-6 : Mr.R.J.Karthik

For Respondent-7 : Mr.S.Manohar

JUDGMENT

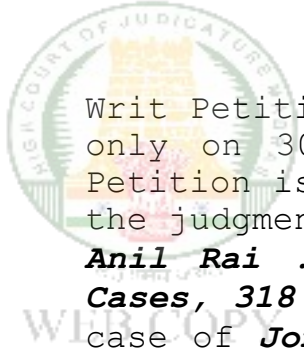
[Judgment of the Court was made by **M.DURAISWAMY, J.**]

Challenging the order passed in W.P(MD)No.16969 of 2014, dated 30.4.2021, the Writ Petitioner has filed the above Writ Appeal.

2.The appellant had filed the Writ Petition to issue a Writ of Certiorarified Mandamus to call for the order passed by the first respondent, dated 14.09.2014 and to quash the same and to direct the first respondent to issue No Objection Certificate to reconstruct the mosque of Tenkasi Bazaar Jumma Pallivasal by removing the existing old structure situated at No.35, Amman Sannathi Street, Opposite to Tenkasi Sub-Court,Tenkasi, by getting plan approval from the fourth respondent.

3.Mr.M.Ajmal Khan, learned Senior Counsel appearing for the appellant submitted that the learned Single Judge has reserved the

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Writ Petition for orders as early as 19.11.2019, pronounce the order only on 30.4.2021 and therefore, the order passed in the Writ Petition is liable to be set aside solely on that ground, in view of the judgment of the Honourable Supreme Court of India in the case of **Anil Rai .vs. State of Bihar** reported in **(2001) 7 Supreme Court Cases, 318** and the order of the Division Bench of this Court in the case of **Jones Investment Co.Inc .vs.Intellectual Property Appellate Board** reported in **2015 -4-L.W.30**. Further, the learned counsel submitted that inspite of going into the merits of the order passed in the Writ Petition, it would be suffice to grant liberty to the appellant to file an appeal as against the order passed by the first respondent, dated 14.09.2014, which is impugned in the Writ Petition under Section 6(4) of the Tamil Nadu District Municipalities Buildings Rules, 1972 independently and the Appellate Authority may be directed to consider the appeal filed by the appellant uninfluenced by the observation made in the Writ Petition in W.P(MD)No.16969 of 2014

4.Mr.Veerakathiravan, learned Additional Advocate General appearing for the respondents 1 to 3, Mr.P.Athimoolapandian, learned Standing Counsel appearing for the fourth respondent, Mr., R.J.Karthik, learned counsel appearing for the sixth respondent and Mr.S.Manohar, learned counsel appearing for the seventh respondent has no objection for giving such liberty.

5.Having regard to the submissions made by the learned counsel appearing on either side, the Writ Appeal is disposed of by giving such liberty to the appellant for filing an appeal under Rule 6(4) of the Tamil Nadu District Municipalities Buildings Rules, 1972 within a period of two weeks from the date of receipt of a copy of this order. The appellant is directed to make all the respondents in the Writ Appeal as respondents in the appeal filed before the Appellate Authority. On filing of the above appeal, the Appellate Authority is directed to consider the appeal filed by the appellant and decide the same independently on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned, uninfluenced by any of the observations made in the Writ Petition in W.P(MD)No.16969 of 2014 within a period of four months from the date of presentation of the appeal by the appellant. It is made clear that the Appellate Authority shall consider all the contentions to be raised by the parties concerned while deciding the matter. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
(Now New District of Tenkasi)
Tenkasi.
- 2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli,
(Now New District of Tenkasi),
Tenkasi.
- 3.The Revenue Division Officer,
Tenkasi,
Tirunelveli District
(Now New District of Tenkasi).
- 4.The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.
(Now New District of Tenkasi)

+1 CC to M/s.S.MANO HAR, Advocate (SR-30292[F] dated 27/09/2021)
+1 CC to M/s.R.J.KARTHICK, Advocate (SR-30302[F] dated 27/09/2021)
+1 CC to M/s.SPL.GP (SR-30305 & 30515[F] dated 27/09/2021)

JUDGMENT MADE IN
W.A(MD)NO.1585 OF 2021
24.09.2021

KB(01.10.2021) 4P 8C