



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.15532 of 2020

and W.M.P. (MD) No.13045 of 2020

G.Ramesh

... Petitioner

Vs.

1.The Secretary to Government,
Department of Housing & Urban Development,
Secretariat,
Chennai - 600 009.

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

3.The Member Secretary,
Kodaikanal Local Planning Authority,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

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

... 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 permit the petitioner to use the building Ward - C, Block No.II T.S.No.38/2A2, Door No.3/41-3, Bear Shola Road, Kodaikanal for residential purpose for which permission was already granted by an order Date 23.09.2013 by remove lock and seal.

For Petitioner : Mr.Singaravelan,
Senior Counsel
for Mr.D.Selvanayagam

For Respondents 1 & 2 : Mr.R.Baskaran
Standing Counsel for Government

For Respondent Nos.3 & 4: 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.Singaravelan, learned Senior Counsel for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government,

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



appearing for respondent Nos.1 and 2 and Mr.T.S.Mohammed Mohideen, learned Standing Counsel for respondent Nos.3 and 4.

2.The petitioner seeks for a direction upon the respondents to permit the petitioner to use the building in Ward - C, Block No.II T.S.No.38/2A2, Door No.3/41-3, Bear Shola Road, Kodaikanal for residential purpose, for which permission was already granted by an order dated 23.09.2013, by removing the lock and seal.

3.Admittedly, the relief sought for by the petitioner has to be considered by the Government. Further, there is a detailed procedure, which has to be followed before re-classification. A counter affidavit has been filed by the Commissioner Kodaikanal Municipality, wherein it has been stated that the building is a lodging house having 24 rooms and it is let out on daily basis and the building has been under lock and seal. With regard to the deviation, the following has been stated:

"3. i) The building approval was given to G.Ramesh S/o. Gandhimathinathan in B.L.No.74/2013/F1 Dated 23.09.2013 for Residential Building at Ward C, Block 11, T.S.No.38/2A2 Bear shola Road, Kodaikanal.

As per the approval height of the building must be 6.95 meters, Area of site 253.00 Sq.meter, Ground floor - 60.00 sq.meter, First Floor - 60.00 sq.meter, Total Construction Area Should Come Around 120.00 Sq.Meter. The area of open space must be 193.00 Sq.meter, percentage of plot coverage has to be 23%.

ii) And Further building approval was given to R.Ezhilvathani W/o.G.Ramesh in B.L.No.25/2014/F1 Dated 28.02.2014 for Residential Building at Ward C, Block 11, T.S.No.38/2A1B Bear shola Road, Kodaikanal.

As per the approval height of the building must be 6.95 meters, Area of site 253.00 Sq.meter, Ground floor - 60.00 sq.meter, First Floor - 60.00 sq.meter, Total Construction Area Should Come Around 120.00 Sq.Meter. The area of open space must be 193.00 Sq.meter, percentage of plot coverage has to be 23%.

a) Both the Buildings Approval are for constructing Residential Building Only. But the petitioner and his Wife R.Ezhilvathani have Raised a Combined Lodge building by name Ezhil Residency. Both have received adverse notice. The Deviated Portion of the Building Measures as here under:

Ground floor - 142.50 sq.meter,
First Floor - 336.30 sq.meter,
Second floor - 336.30 sq.meter,
Third floor - 199.50 sq.meter.

Area of Total building had construction was 1014.60 Sq.meter.

More particularly, the building was in commercial use.



Deviating the approval plan, the building has been constructed."

4. In any event, it is for the Government to take a decision on the request of the re-classification. Hence, we dispose of the Writ Petition, leaving it open to the first respondent to take a decision 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 (CSII)

// 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.

To

1. The Secretary to Government,
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Chennai - 600 009.

2. The Director,
Town and Country Planning,
Opposite to LIC,
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4. The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-21073[F]
dated 02/07/2021)



W.P(MD)No.15532 of 2020

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-
21074[F] dated 02/07/2021)

W.P. (MD) No.15532 of 2020
02.07.2021

KMK(CO)
KB(13.07.2021) 4P 7C