



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2021

CORAM

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.(MD)No.15891 of 2021

and

W.M.P(MD) .No.12798 of 221

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Z.Jesima Begum

... Petitioner

Vs.

The Deputy Director of Town &
Country Planning,
Pudukottai Town and Country Planning
Authority,
Plot No.282, Periyar Nagar,
Railway Station Road,
Pudukottai.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order made by the respondent in his proceedings in Na.Ka.No.622/2021/PU.MA dated 22.06.2021 and quash the same as illegal and consequently grant approval to the petitioner's development in light of the order made by this Hon'ble Court in W.P(MD).No.22867 of 2019 dated 25.03.2021 and G.O.Ms.No.154, Housing and Urban Development UD4(3) Department dated 13.10.2020 within the time that may be stipulated by this Court.

For Petitioner	: Mr.M.Ajmal Khan, Senior Counsel
For Respondent	: Mr.P.Subbaraj, Counsel for State.

O R D E R

The petitioner challenges an order dated 22.06.2021 of the respondent by which the petitioner's application dated 24.03.2021 was rejected.

2. The petitioner states that he owns land measuring about 353.03 square metres in Survey No.8598/1 to 4, Pudukottai Town, Pudukottai District. Such property was let on lease to a proprietorship service namely I-Carz Service Centre. In W.P(MD). No.22867 of 2019, the petitioner's tenant was arrayed as the eighth respondent. The said writ petition related to encroachment by some of the other respondents therein and alleged unauthorized construction by the eighth respondent. The eighth respondent



submitted before the Division Bench of this Court that he had submitted an application for plan sanction before the relevant planning authority. On such basis, the planning authority was directed by judgment dated 25.03.2021 to pass appropriate orders on the application for plan sanction.

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3. The petitioner draws reference to the impugned order and points out that the judgment of the Division Bench was completely misconstrued. While the Division Bench directed the respondent to consider the application for plan sanction, the respondent directed the petitioner to approach the Principal Secretary to Government, Housing and Urban Development Department under Section 80A.

4. Learned Senior Counsel for the petitioner refers to the application submitted by the petitioner and points out that such application is under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. Therefore, he submits that such application should have been considered and disposed of on merits. Instead, the respondent erroneously directed the petitioner to approach the Principal Secretary under Section 80A, which relates to removal of lock and seal. It is contended on behalf of the petitioner that the request for removal of lock and seal would be made to the authority concerned once the application for plan sanction is decided.

5. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the respondent. He submits that the matter may be remitted for reconsideration by taking into account the order passed by the Division Bench of this Court.

6. Upon perusal of the impugned order, it is evident that such impugned order has been passed by completely misconstruing the nature of the petitioner's application before the respondent. Both on the basis of the application under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971 and on the basis of the Division Bench judgment dated 25.03.2021, the respondent was required to consider and dispose of the application. Instead, the respondent completely misunderstood the scope of the petitioner's application and directed the petitioner to approach the Principal Secretary under Section 80A. As such, the impugned order cannot be sustained and is hereby quashed. As a corollary, the matter is remitted to the respondent for reconsideration of the petitioner's application dated 24.03.2021. The respondent is directed to reconsider the same by taking into account the judgment of the Division Bench in W.P(MD).No.22867 of 2019 and pass a reasoned order thereon within a period of two months from the date of receipt of a copy of this order.



7. W.P(MD).No.15891 of 2021 is disposed of on these terms without any order as to costs.

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Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The Deputy Director of Town &
Country Planning,
Pudukottai Town and Country Planning
Authority,
Plot No.282, Periyar Nagar,
Railway Station Road,
Pudukottai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-28421[F] dated
07/09/2021)

+1 CC to M/s.SPL GP (SR-28335[F] dated 07/09/2021)

W.P. (MD)No.15891 of 2021
06.09.2021

MMS (CO)

SB(16.09.2021) 3P 4C