



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.8936 of 2022 and WMP.No.8771 of 2022

K.Abirami

... Petitioner

-vs-

1. The Government of Tamil Nadu
rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Commissioner,
Pollachi Municipality,
Pollachi.
3. The Member-Secretary,
Local Planning Authority,
Pollachi.
4. The Joint Director,
District Town and Country Planning Office,
Corporation Commercial Complex,
Dr.Nanjappa Road,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Proceedings Letter No.15088/UD5(1)/2021-1, dated 02.03.2022 as the same is issued in contravention of the provisions of Section 79 of the Town and Country Planning Act and without providing opportunity to the petitioner to submit further representation insofar as the petitioner's building at No.16, Venkataramana Round Road, Mahalingapuram, Pollachi-642 002 by quashing the same and consequently, forbear the respondents 2 and 3 from initiating any coercive action of locking and sealing and demolishing with regard to the building put up at the aforementioned property.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel for Mr.R.Mohan



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For Respondents : Mr.K.Karthik Jaganathan,
1 and 4 Addl. Govt. Pleader

For Respondents : Mr.B.Anand
2 and 3

ORDER

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

Challenging the correctness of the Proceedings in Letter No.15088/UD5(1)/2021-1, dated 02.03.2022 issued by the 1st respondent and for quashing the same on the ground that the same is issued in contravention of the provisions of Section 79 of the Town and Country Planning Act and without providing opportunity to the petitioner to submit further representation insofar as the petitioner's building at No.16, Venkataramana Round Road, Mahalingapuram, Pollachi-642 002 is concerned with a consequential direction, forbearing the respondents 2 and 3 from initiating any coercive action of locking and sealing and demolishing with regard to the building put up at the aforementioned property, the present Writ Petition has been filed.

2. Learned Senior Counsel appearing for the petitioner would submit that the petitioner is the absolute owner of the property situated at No.16, Venkataramana Round Road (Kamarajar Street), Mahalingapuram, Pollachi-642 002 as she has acquired the same from her mother by way of Settlement Deed dated 15.07.2015. Even before acquiring the property under the Settlement Deed, her family members were carrying on business thereon for more than 20 years. Periodical renovation and repairing works were also carried out. Though the property is abutting two wide roads in which one road is having 40 feet width and another road is having 70 feet width leading to Palladam Main Road, the Local Body has also not come out with any modification of City Plan despite substantial growth of development took place periodically in and around the said area. While so, when the petitioner's building consisting of ground + 2 floors with sufficient car parking spaces and open areas were let out to banks, financial institutions and offices, she was issued with a notice under Sections 56 and 57 of the Town and Country Planning Act dated 08.02.2021 in Proceedings Na.Ka.No.1498/2017/G1 calling upon the petitioner to submit the revised plan and to get the building regularized. As against the said notice, the petitioner preferred a Revision Petition under Section 80-A of the Act to the 1st respondent on 11.03.2021. Thereafter, the Revisional Authority finding no justification refused to maintain the same by order dated 16.03.2021. However, the petitioner has also filed a detailed



representations dated 11.08.2021 and 25.02.2022 to the respondents not to take any coercive steps. As against the rejection order dated 16.03.2021, the petitioner has also preferred Section 79 Appeal before the 1st respondent on 31.03.2022 along with stay petition. But without considering the fact that the appeal filed by the petitioner is pending consideration, the 1st respondent has passed a common impugned order dated 02.03.2022 calling upon the petitioner and others to rectify the deviations within 30 days. As against the said order, the petitioner has preferred Review Petition along with Stay Petition under Section 81 of the Tamil Nadu Town and Country Planning Act to the 1st respondent and the same is also still pending. Therefore, when a Review Petition is pending, if a direction is given to the 1st respondent to consider and dispose of the same within a time stipulated by this Court, no prejudice would be caused to anyone, failing which, the petitioner would be forced to face untold misery, it is pleaded.

3. Mr.K.Karthik Jaganathan, learned Additional Government Pleader takes notice for respondents 1 and 4 and Mr.B.Anand, learned Standing Counsel takes notice for respondents 2 and 3.

4. Learned Additional Government Pleader appearing for the respondents 1 and 4 would submit that if sufficient time is granted, the pending review petition of the petitioner would be considered and disposed of on merits.

5. Recording the same, the 1st respondent herein is directed to consider and dispose of the pending Review Petition filed by the 1st respondent on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this Order. Till then the respondents are directed not to take any coercive steps in respect of the property-in-question. Needless to mention that the 1st respondent shall pass orders on the Review Petition filed by the petitioner without being influenced by any of the observations made in this Order and after giving an opportunity of personal hearing to the petitioner herein.

6. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



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To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Commissioner,
Pollachi Municipality,
Pollachi.
3. The Member-Secretary,
Local Planning Authority,
Pollachi.
4. The Joint Director,
District Town and Country Planning Office,
Corporation Commercial Complex,
Dr.Nanjappa Road, Coimbatore.

+1cc to Mr.B.Anand, Advocate, S.R.No.25045

+1cc to the Government Pleader, S.R.No.25779

W.P.No.8936 of 2022

MT(CO)

CT 26/04/2022



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