



WEB COPY

W.P.(MD)No.10282 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.05.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.10282 of 2022

and

W.M.P. (MD)Nos.7324 to 7326 of 2022

C.Kumar Selvin

... Petitioner

Vs.

1.State of Tamil Nadu,
represented by its Secretary,
Department of Town and Country Planning,
St.George Fort, Chennai.

2.The Director,
Department of Town and Country Planning,
Anna Salai, Chennai.

3.The Nagercoil Local Planning Authority,
represented by its Member Secretary
(District Collector),
Collectorate, Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.No.1241/2019, dated 17.05.2022 under Sections 56 and 57 of Town and Country Planning Act, 1971, and to quash the same and consequently, to grant one year for vacating the premises occupied by the petitioner in No.214/25, DDJ Centre, Vadassery, Nagercoil-1, Kanyakumari District.

For Petitioner : Mr.F.Deepak
For Respondens : Mrs.D.Farjana Ghoushia
Special Government Pleader

O R D E R

[Order of the Court was made by ABDUL QUDDHOSE, J.]

This Writ Petition has been filed challenging the lock and seal order, dated 17.05.2022 issued by the third respondent under Sections 56 and 57 of Town and Country Planning Act. 1971.



2.The petitioner is a tenant in the subject property. The petitioner claims that he is a travel operator and is recognised by various travel agencies. According to him, for all his business communications, the same address has been disclosed. He has also stated in the affidavit filed in support of this Writ Petition that the travel documents pertaining to the pilgrims, who are proceeding to attend the canonization function of St.Devasahayam Pillai at Italy are inside the said premises. Hence, the lock and seal of the premises will have to be removed to enable the petitioner to complete the travel formalities for the pilgrims, who are attending the canonization function at Italy. It is also contended that without issuing notice to the petitioner, the impugned order has been passed under Sections 56 and 57 of Town and Country Planning Act, 1971. The petitioner has also undertaken that he shall vacate the premises within a period of one year.

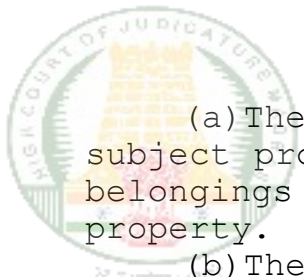
3.The learned Special Government Pleader appearing for the respondents, however, would submit that sufficient opportunity was granted to the petitioner to remove all the articles lying in the subject premises. She would also point out the earlier order passed by this Court on 16.03.2020 in W.P.(MD)No.5471 of 2020, wherein, after recording the undertaking given by the petitioner that he shall vacate the premises within a period of two months, the Division Bench in the said order directed the petitioner to vacate the premises within a period of two months from 05.03.2020.

4.However, the learned Counsel for the petitioner would submit that immediately after passing of the order on 16.03.2020 by the Division Bench, Corona Pandemic started and therefore, the petitioner was not able to vacate the premises and only under those circumstances, the petitioner has filed this Writ Petition.

5.The reasons given by the petitioner for not vacating the premises as per the order, dated 16.03.2020 are found to be reasonable and satisfactory to this Court. However, we are of the considered view that the time sought for by the petitioner in this Writ Petition, ie., one year cannot be granted, as even under the earlier order passed in W.P(MD)No.5471 of 2020, only two months time was granted.

6.Considering the passage of time from the date of the order, ie., 16.03.2020 passed in W.P(MD)No.5471 of 2020, we deem it fit to grant 45 days time for the petitioner to remove the belongings including the documents from the subject property. The learned Special Government Pleader has also not raised any serious objection for granting 45 days time to the petitioner.

7.After giving due to consideration to the aforementioned factors, this Writ Petition is disposed of by issuing the following directions:



(a)The third respondent shall remove the lock and seal of the subject property to enable the petitioner to take possession of his belongings including the documents/records from the subject property.

(b)The petitioner shall remain in possession of the subject property once the lock and seal is removed for a period of 45 days from the date when the lock and seal is removed. The lock and seal shall be removed by the third respondent within a period of two days from the date of receipt of a copy of this order.

(c)The petitioner shall handover the possession of the subject property within a period of 45 days from the date of taking possession of the same pursuant to this order to the third respondent without fail.

8.The petitioner has also given an undertaking through his Counsel that no further extension shall be sought for by him from this Court. The petitioner has also filed an undertaking affidavit in terms of the above before this Court. The same is also recorded. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer

// True Copy //

20/05/2022

Sub Assistant Registrar(CS)

To

- 1.The Secretary,
Department of Town and Country Planning,
State of Tamil Nadu,
St.George Fort, Chennai.
- 2.The Director,
Department of Town and Country Planning,
Anna Salai, Chennai.
- 3.The Member Secretary (District Collector),
Nagercoil Local Planning Authority,
Collectorate, Nagercoil,
Kanyakumari District.

+1 CC to M/s.F.DEEPAK, Advocate (SR-23788[F] dated 19/05/2022)

+1 CC to M/s.SPL.GP (SR-23920[F] dated 20/05/2022)

W.P (MD) No.10282 of 2022

19.05.2022

RS (20.05.2022) 3P-6C

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