



WEB COPY



W.P.No.33362 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Writ Petition No.33362 of 2022
and W.M.P.No.32793 of 2022

Ashok Kumar

.. Petitioner

Vs.

1.The Member Secretary
Udhagamandalam Municipality
Hospital Road
Udhagamandalam.

2.The Commissioner
Udhagamandalam Municipality
Hospital Road
Udhagamandalam.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the impugned notice issued by the respondent in letter UAC No.56/2022/F1 dated 11.11.2022 and to quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Shahul Hameed

For Respondents : Mr.E.Vijay Anand
Additional Government Pleader



ORDER

WEB COPY

(Order of the Court was delivered by V.M.VELUMANI,J.)

The present writ petition is filed challenging the impugned notice issued by the 1st respondent under Section 56 of the Town and Country Planning Act.

2.Heard the learned counsel appearing for the petitioner as well as Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.

3.According to the petitioner, building in question was used as a Cinema Theatre named as 'Kempa Gowda Talkies'. In the family partition, the said property was allotted to the petitioner. The petitioner discontinued the business of running Cinema Theatre from the year 2012. The petitioner has given the ground floor for rent for shop known as 'Chamraj' from 2012. Subsequently after he vacated in the year 2016, the petitioner leased out the ground floor portion to the present tenant to run textile showroom. The tenant made internal modification to suit his business. No structural alteration, modification or external modification was done. The 2nd respondent enhanced the property tax in the year 2016



W.P.No.33362 of 2022

taking into account the modification carried on by the tenant. Learned counsel appearing for the petitioner submitted that 2nd respondent has enhanced the property tax from the year 2016 taking into account the internal modification carried on by the tenant and after six years, the impugned notice is issued. The modification made by the tenant is not in violation of rules and hence, the impugned notice is illegal. Hence, the petitioner has come out with the present writ petition for quashing the said impugned notice.

4.Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the respondents submitted that the tenant without any permission has altered the building. In view of the same, impugned notice was issued under Section 56 of the Town and Country Planning Act. If the petitioner is aggrieved, he has to submit explanation to the respondents and prayed for dismissal of the writ petition.

5.From the above submissions of the learned counsel appearing for the petitioner and learned Additional Government Pleader appearing for the respondents, it is seen that it is the case of the petitioner that only internal modifications are made in the building and petitioner has not



W.P.No.33362 of 2022

violated any of the provisions of the Act. The 1st respondent has issued lock & seal and demolition notice under Section 56 of the Town and Country Planning Act, on 11.11.2022 directing the petitioner to restore the property to original position. To such notice, it is for the petitioner to give explanation along with documents to substantiate his contention that only internal modifications are made and none of the provisions are violated. The petitioner is given liberty to submit his explanation within a period of three weeks from the date of receipt of a copy of this order and if any such explanation is given, the 1st respondent is directed to consider the same on merits and pass orders in accordance with law after giving personal hearing. It is open to the respondents to take further proceedings based on the order. Till orders are passed in the explanation, both the respondents are restrained from taking any coercive steps against the petitioner.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

(V.M.V., J) (R.H., J)
02.01.2023

Index: Yes/No
kj



W.P.No.33362 of 2022

To

WEB COPY

1.The Member Secretary
Udhagamandalam Municipality
Hospital Road
Udhagamandalam.

2.The Commissioner
Udhagamandalam Municipality
Hospital Road
Udhagamandalam.



WEB COPY



W.P.No.33362 of 2022

**V.M.VELUMANI,J.
and
R.HEMALATHA,J.**

Kj

Writ Petition No.33362 of 2022
and W.M.P.No.32793 of 2022

02.01.2023