



W.P.(MD)No.21193 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.21193 of 2014 and
MP(MD) No.1 of 2014

A.M.S.Saravanan

... Petitioner

Vs

1.The Member Secretary,
Trichirappalli Local planning Authority,
No.10, Williams Road,
Cantonment, Trichy.

2.The Commissioner,
Trichy Municipal Corporation,
Trichy.

3.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai, Chennai.

4.The Manager,
Dharmapura Adheena Mouna Mutt Kattalai,
Rockfort Thayumanaswamy Temple,
Tiruchirappalli.

... Respondents

(R3 and R4 are Suo Motu Impleaded vide Court order dated 06.11.2023 in
WP(MD) No.21193 of 2014 by BPJ)



W.P.(MD)No.21193 of 2014

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of MANDAMUS forbearing the respondents herein from taking any steps proposed in the notice Na.Ka.No. 1881/2014 Thi.Vu.Thi.Ku 3 dated 27.11.2014 and signed on 01.12.2014 which has been issued by first respondent herein.

For Petitioner	: Mr.D.Nallathambi
For R1	: Mr.N.Ramesh Government Advocate
For R2	: Mr.K.R.Kishore Ram for M/s.RB Law Associates
For R3	: Mr.P.Subbaraj Special Government Pleader
For R4	: Mr.J.Barathan

ORDER

This writ petition was filed in the year 2014 for a Mandamus forbearing the respondents from taking any further action as per the notice, dated 27.11.2014.

2.The case of the petitioner is that the land in Old Town Survey No.347, New Survey No.6 and the building thereon belongs to



W.P.(MD)No.21193 of 2014

Dharmapura Adheena Mouna Mutt Kattalai, Trichy. The petitioner has entered into a lease agreement with the above Mutt for the above property and at the time of agreement, the petitioner was permitted to construct a new building by demolishing the existing one. Accordingly, the Manager of Dharmapura Adheenam Mouna Mutt Kattalai has presented the building plan for the proposed new construction to the first respondent/Local Planning Authority on 31.12.2012. In turn, the above Mutt Kattalai was asked to submit certain documents along with a No Objection Certificate from the HR & CE Department, by a communication dated 09.12.2013. The Mutt has replied on 26.12.2013 stating that no such NOC is required from the HR & CE Department for the proposed construction in the Mutt property. At this juncture, the first respondent herein/the Member Secretary, Trichirappalli Local planning Authority, Trichy has issued a notice to the Manager, Dharmapura Adheena Mouna Mutt Kattalai, Trichy under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 to



W.P.(MD)No.21193 of 2014

stop the constructions in the subject property. According to the petitioner, at that relevant point of time, no construction work was carried out. Neither the petitioner nor the Dharmapura Adheena Mouna Mutt Kattalai have challenged the above notice issued by the first respondent. However, the petitioner has filed this writ petition for a Mandamus forbearing the respondents from taking any action as per the above notice.

3.The Member Secretary, Trichirappalli Local planning Authority, Trichy/the first respondent herein has filed a counter affidavit stating that the Manager of Dharmapura Adheena Mouna Mutt Kattalai, Trichy has submitted a building plan for the construction of a commercial building by the petitioner in the land in Old T.S.No.347, T.S.No.6/1, which belongs to the Mutt and the Mutt is under the control of HR & CE Department. Therefore, a direction was issued to the Mutt to produce a No Objection Certificate obtained from the HR &



W.P.(MD)No.21193 of 2014

CE Department. According to the first respondent, the Joint Commissioner, HR & CE Department by his letter in Roc.No. 11200/2013A3, dated 29.08.2013 has clarified that the above mentioned Mutt is under the administration of HR & CE Department and hence No Objection Certificate is necessary for the construction of the any building in the Mutt property. Based on the clarification from the HR & CE Department, the first respondent has insisted for No Objection Certificate and the proposal has also been returned to the petitioner enabling him to apply afresh along with No Objection Certificate. In the meantime, the petitioner has constructed the building in the subject property. According to the first respondent, the building constructed by the petitioner without any approval from the authorities made this respondent to issue the impugned notice dated 27.11.2014.

4.This Court considered the rival submissions made and also perused the materials placed on record.



W.P.(MD)No.21193 of 2014

WEB COPY

5. Though the petitioner claims that he has entered into a lease agreement with the Dharmapura Adheena Mouna Mutt Kattalai, Trichy, he has not impleaded the above Mutt as a party to this writ petition. Considering the issue involved in this writ petition, this Court, by order dated 06.11.2023 has *suo motu* impleaded the Manager of Dharmapura Adheena Mouna Mutt Kattalai as a party to this writ petition.

6. The impugned notice has been issued by the first respondent based on the clarification, which the first respondent has obtained from the Joint Commissioner, HR & CE Department. This is recorded in the counter affidavit. The proceedings of the Joint Commissioner has not been challenged by the petitioner as well as the Mutt. Considering the fact that this writ petition is pending from the year 2014, this writ petition is disposed of with a liberty to the fourth



W.P.(MD)No.21193 of 2014

WEB COPY

respondent to file a necessary application to get a clarification from the Commissioner as to the requirement of any No Objection Certificate for the construction of a building in a Mutt property within a period of two weeks from the date of receipt of a copy of this order. In the event, if any such representation is made by the Mutt, it may be clarified by the third respondent/the Commissioner within a period of twelve weeks from thereon. After getting clarification from the Commissioner, the fourth respondent shall file a necessary application before the first respondent to get approval as required under the Tamil Nadu Country Planning Act, 1971. No costs. Consequently, connected Miscellaneous Petition is closed.

05.12.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

vrn



W.P.(MD)No.21193 of 2014

WEB COPY

To

- 1.The Member Secretary,
Trichirappalli Local planning Authority,
No.10, Williams Road,
Cantonment, Trichy.
- 2.The Commissioner,
Trichy Municipal Corporation,
Trichy.
- 3.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai, Chennai.



WEB COPY



W.P.(MD)No.21193 of 2014

B.PUGALENDHI, J.

vrn

Order made in
W.P.(MD)No.21193 of 2014 and
MP(MD) No.1 of 2014

05.12.2023