



WP No.26109 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2024

CORAM:

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B. BALAJI

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A.T.Devasenapathy

... Petitioner

versus

- 1.The Government of Tamil Nadu,
rep. By the Secretary to Government,
Housing & Urban Development Department,
Fort St.George, Chennai 600 009
 - 2.The Director,
Directorate of Town & Country Planning,
2, 3 and 4 Floor,
C&E Market Road, Koyambedu,
Chennai 600 107
 - 3.The Member Secretary,
Pollachi Local Planning Authority,
Pollachi
 - 4.The Commissioner,
Pollachi Municipality, Pollachi
- ... Respondents

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PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus to call for the entire records of the 4th respondent which culminated in Na.Ka.No.4422/ 2023/G1 dated 08.07.2024 and quash the same as illegal and arbitrary and further direct the fourth respondent to deseal the premises at D.No.19/1, Kamarajar Street, Mahalingapuram, Pollachi, to enable the petitioner to rectify the defects/ violations and apply for planning permission under the provisions of Tamil Nadu Act 35 of 1972 and TNCDB Rules, 2019.

For Petitioner	: Mr.V.P.Senguttuvel, Standing counsel, for Mr.K.R.Nishanth
For Respondents 1 to 3	: Mr.Abishekmurthy, Government Advocate
For Respondent No.4	: Mr.B.Anand

ORDER

(Made by D. KRISHNAKUMAR, J.)

The writ petition is filed challenging the order passed by the 4th respondent in Na.Ka.No.4422/ 2023/G1 dated 08.07.2024 and direct the fourth respondent to de-seal the premises at D.No.19/1, Kamarajar Street, Mahalingapuram, Pollachi, to enable the petitioner to rectify the defects/ violations and apply for planning permission under the provisions of Tamil



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Nadu Act 35 of 1972 and TNCDB Rules, 2019.

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2. According to the petitioner, he has filed an appeal petition dated 08.07.2024 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the Government/first respondent, against the lock and seal notice dated 04.07.2024 along with a stay application and the same are still pending before the Government. In the meantime, the impugned order has been passed on 08.07.2024 by the respondent municipality and locked and sealed the premises on 11.07.2024. Hence, the writ petition has been filed.

3. Learned Standing Counsel appearing for the Corporation submits that the appellate authority is having powers under the provisions of the Act to grant time for rectifying the defects which has been pointed out by the respondent Municipality and therefore, the Municipality has already locked and sealed the said premises from the date of issuing the impugned notice.



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4. Learned Senior Counsel appearing for the petitioner submits that similar buildings, which had been locked and sealed, have been de-sealed to enable them to rectify the defects pointed out by the municipality and therefore, on the same line, this court may direct the municipality to de-seal the premises in question to rectify the defects pointed out by the Municipality.

5. Learned Standing Counsel for the Municipality also not disputed the said fact that similar buildings have been de-sealed for the purpose of rectifying the defects pointed out by the Municipality.

6. In such circumstances, we are of the view that the appeal petition filed on 08.07.2024 under the provisions of the Act, has to be disposed of within a period of 90 days from the date of receipt of the said appeal. Therefore, no prejudice would be caused if the said appeal is disposed within a period of four weeks from the date of receipt of a copy of this order.



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7. In view of the above, we are inclined to pass orders as follows:

i) We direct the first respondent/appellate authority to consider the petitioner's appeal petition dated 08.07.2024, on merits and in accordance with law, and pass orders, within a period of four weeks from the date of receipt of a copy of this order.

ii) In the meantime, the fourth respondent Municipality is directed to de-seal the premises in question for the purpose of enabling the petitioner to rectify the defects, as pointed out by the municipality, for the aforesaid period of four weeks time .

8. With the above directions, the writ petition stands disposed of. There shall be no order as to costs. Consequently, WMP Nos.28519 and 28520 of 2024 are closed.

(D.K.K., J.) (P.B.B., J.)
15.10.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

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