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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.18477 of 2013
and
W.M.P.(MD)Nos.1 to 3 of 2013

S.Senthur Pandian ... Petitioner

-Vs-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

3.The Member Secretary,
Local Planning Authority,
Thoothukudi. ...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent in C.No.1549/2001 TULPA, Notice NO.1, dated 13.06.2012 and the consequential impugned

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proceedings by the third respondent in Na.Ka.No.1549 of 2001 Thu.U.Thi.Ku dated 12.07.2012 and quash the same as illegal and consequently direct the respondents to unlock and unseal the premises of the petitioner in Ward No.4, Block No.7, T.S.No.3291/35, PT, 37PT, 3291/B2B2pt, Melur Bungalow Street, Thoothukudi forthwith.

For Petitioner : Ms.Jasima Yasmin
for M/s.Ajmal Associates
For R1 & R3 : Mr.V.Nirmal Kumar
Government Advocate

For R2 : No Appearance

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This writ petition has been filed challenging the notice issued by the third respondent directing the petitioner to stop the construction work carrying out by the petitioner in the subject property and to produce the approved plan for such construction.

2.The property in T.Survey No.3291/35, PT, 37PT, 3291/B2B2pt, Melur Bungalow Street, Thoothukudi belongs to the petitioner. He made an application before the respondents to grant building permission and approval on 11.04.2012 and under the fond hope that the approval will be granted to the petitioner, he

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started the construction work. While the construction work was in the final stage, the third respondent has issued the stop work notice as the building is being constructed without any valid permission and approval and also sealed the premises. Hence, the petitioner is constrained to file the present writ petition.

3.The learned counsel for the petitioner submitted that the impugned notice dated 13.06.2012 has been served to the petitioner only on 20.06.2012. Further the subject property was sealed on 12.07.2012 without providing 30 days period of time to submit his explanation in violation of principles of natural justice and the provisions of Section 56 of the Town and Country Planning Act. Though it is stated that the impugned notice was made based on the site inspection report, the said inspection report was not furnished to the petitioner. He further submits that based on the interim order granted by this Court at the time of admission, the lock seal of the premises was removed.

4.The learned Government Advocate appearing for official respondents filed counter affidavit stating that though the stop work notice was given to the petitioner 12.06.2012, the petitioner has not submitted his objection/explanation to the said notice till today. He further submits the the site inspection was done

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only in the presence of the petitioner and inspite of repeated requests, the petitioner has not produced any approved plan for the said construction.

5.At this juncture, the learned counsel for the petitioner submits that the petitioner shall be permitted to make his representation/explanation within a period of two weeks along with all necessary documents to the authorities concerned.

6.Considering the facts and circumstances of the case and also taking note of the submission made by the learned counsel for the petitioner, this Court without expressing any opinion on the merits of the matter, directs the petitioner to make his representation/explanation before the third respondent along with all the relevant documents within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation/objection, the third respondent is directed to consider the same and take necessary action for removal of unauthorized construction, if any, within a period of twelve weeks thereafter by following the procedure as contemplated under law.

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7.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
28.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

3.The Member Secretary,
Local Planning Authority,
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