



W.P.(MD) No.8244 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.8244 of 2013

and

M.P.(MD)No.1 of 2013

L.Nalla Perumal

... Petitioner

-Vs-

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Commissioner,
Kuzhithurai Municipality,
Kuzhithurai, Kanyakumari District.

3.The Deputy Director of Town and Country Planning,
Tirunelveli Region, 108, Trivandrum Road,
Tirunelveli-627 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned locking & sealing and demolition notice issued by the 2nd respondent in his letter No.2371-23/2012/TPI, dated 01.10.2012 and quash the same as illegal and consequently, to forbear the 2nd respondent from sealing the premises in furtherance thereof.



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For Petitioner : Mr.Jerin Mathew,
for Mr.M.E.Ilango
For R1 & R3 : Mr.V.Nirmal Kumar,
Government Advocate
For R2 : Mr.K.Vamanan

ORDER

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

The locking and sealing and demolition notice issued by the 2nd respondent, dated 01.10.2012, is under challenge in this Writ Petition.

2.Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that at the time of purchase of the building in question, it was fully built with Ground to 3rd floor and the vendor of the property had duly obtained building plan approval. He further submitted that the petitioner has not obtained plan approval for 4th and 5th floors. However, the impugned demolition notice is issued for the entire building in question and therefore, the impugned locking and sealing and demolition notice is liable to be quashed.



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3.The said fact is also admitted in the counter affidavit filed by the 2nd respondent. A perusal of the counter affidavit filed by the 2nd respondent shows that the petitioner has obtained permission only for Ground to 3rd floors, however, has not obtained approval for 4th and 5th floors. Therefore, the impugned locking and sealing and demolition notice issued for removal of the entire building cannot be sustained and the same is liable to be quashed, accordingly, it is quashed.

4.In view of the above, this Writ Petition stands allowed. However, the respondent Municipality is at liberty to issue a fresh notice, if any unauthorized construction is made in the property in question. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
29.02.2024

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

Yuva

To
1.The District Collector,
Kanyakumari District,
Kanyakumari.

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2.The Commissioner,
Kuzhithurai Municipality,
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