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W.P.(MD) No.1269 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.1269 of 2019
and
W.M.P.(MD) No.1088 of 2019**

Ramasubramanian @ Ramani

... Petitioner

-VS-

- 1.The Director
Office of the Directorate of Town
and Country Planning
Annasalai
Chennai – 600 002
- 2.The District Collector
Collectorate
Thoothukudi
- 3.The Deputy Director
Tirunelveli Zone
Town and Country Planning Office
Tirunelveli



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4.The Executive Officer cum Engineer
Special Grade Panchayat
Tiruchendur

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari challenging the impugned order passed by the fourth respondent in Na.Ka.No.203/2013 dated 18.01.2019 and quash the same.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 to R4

ORDER

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

The order dated 18.01.2019, passed by the fourth respondent, under Sections 56 and 57 of the Town and Country Planning Act, 1971, is under challenge in this writ petition.

2. According to the petitioner, he has constructed a lodge and hotel in Survey No.182/19, Ward No.3, Kovil Street, Tiruchendur, , under the name and style of “Hotel Mani Iyyer”. On completion of construction, he has



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opened the said lodge and hotel in the year 2004, after complying with the rules contemplated under the Town and Country Planning Act. In such circumstances, one J.Senthil Rajesh filed W.P.(MD) No.1204 of 2018 seeking a direction to the authority concerned to demolish the construction of commercial, residential and other buildings made in violation of Town and Country planning Act G.O.Ms.No.22 dated 30.01.1997 Coastal Zone Management Plans drawn as per Coastal Regulation Zone Notification, 1991 and other rules, laws and regulation in Thiruchendur Special Grade Town Panchayat, within the time stipulated by this Court and the said writ petition is pending disposal.

3. Further, according to the petitioner, he has not violated any rules and regulations contemplated in the Building Rules. He has submitted a revised plan before the fourth respondent seeking to rectify some of the deviations in the subject building and the said revised plan is still pending consideration. In such circumstances, the fourth respondent has issued the impugned notice, dated 18.01.2019, under Sections 56 and 57 of the Town and Country Planning Act.



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4. Further, according to the petitioner, he is running a lodge and hotel and if the respondent is proceeded further with locking and sealing of the building, it will be put to loss and hardship to him. The alleged violation is only a small deviation and it will not create any danger to the public and the building is in good stability. Hence, he has filed this writ petition.

5. A perusal of the impugned notice shows that the authority concerned has identified the following defects in the subject property:

- i. Approval from the Coastal Regulation Zone Authority.
- ii. Heritage town height restriction rules, and
- iii. Development control rules.

- (a) Defect in open space in front and backside of the building.
- (b) Defect in parking area.

6. Now, according to the petitioner, the above defects have been rectified.



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7. It is brought to the notice of this Court that the Tiruchendur Special Grade Panchayat has now been upgraded as Municipality.

8. In view of the above submissions, we are inclined to issue the following directions:

- (i) The Commissioner, Tiruchendur Municipality, is directed to inspect the subject building and ascertain as to whether there is any violation of the building rules and the above defects have been rectified or not, after giving due notice to the petitioner.
- (ii) It is needless to state that the petitioner shall also cooperate for the inspection.
- (iii) On such inspection, if it is found that there is no violation and the above defects have been rectified, the authority concerned shall pass appropriate orders on merits and in accordance with law.



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- (iv) If it is found that there are violation of building rules and the above defects have not been rectified, the authority concerned shall take necessary action for removal of the unauthorized construction of the subject building.
- (v) Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.
- (vi) To be noted, in order to curb the unauthorized constructions, the Government has constituted a High Level Monitoring Committee and issued G.O.(2D) No.15, Municipal Administration and Water Supply (MA.1) Department, dated 01.03.2024. The Monitoring Committee shall monitor the inspection of the unauthorized constructions as per the said Government Order. The Commissioner, Tiruchendur Municipality shall file an action taken report before the



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Monitoring Committee for removal of the
unauthorized construction.

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

[D.K.K., J.] [R.V., J.]
27.03.2024
(11/11)

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

Note to office:

Mark a copy of this order to the
Commissioner, Tiruchendur Municipality.

krk

To:

- 1.The Director,
Office of the Directorate of Town and Country Planning,
Annasalai,
Chennai – 600 002.
- 2.The District Collector,
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