



W.P(MD)No.12458 of 2022

WEB COPY 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.12458 of 2022
and
W.M.P(MD)No.8834 of 2022

K.Anand

... Petitioner

VS.

The Thanjavur City Municipal Corporation,
Through its Commissioner,
Thanjavur.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the impugned notice dated 13.06.2022 in Na.Ka.No.5951/2022/MCF3 on the file of the respondent and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioner

: Mr.H.Lakshmi Shankar

For Respondent

: Mr.N.Dilip Kumar



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

Prayer in this Writ Petition is to quash the impugned notice dated 13.06.2022, passed by the respondent, directing the petitioner to stop the construction and vacate the building within three days.

2. According to the petitioner, the property comprised in Town Survey No.26/1, Block No.4, Ward No.5, Thanjavur belongs to one R.V.Subramaniam and the property was fully constructed with the building and other amenities with a compound wall of all sides and have been enjoyed in the same manner from the year 1936. While so, the petitioner and six others jointly have taken the property on lease in the year 2018 and they are running a hotel in the name and style of 'Sri Krishna Bhavan Hotel'. Before commencing the business, the petitioner painted the building, replaced damaged tiles in the roof and also repaired the flooring inside the building, as the building was old. However, no structural alteration or additional construction was done. Even though no structural changes or new additional construction was undertaken, the owner of the property viz., R.V.Subramaniam submitted an application before the respondent for



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payment of charges for building license/renovation and also paid necessary charges on 23.10.2018. While so, the petitioner received a communication from the respondent dated 09.06.2022 directing him to produce the building plan approval, property tax, TSLR copy, patta and parent documents of the property in question. The petitioner submitted the required documents before the respondent on 13.06.2022. However, on the very same day, the impugned notice has been issued by the respondent. Challenging the said impugned notice, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner was not given any opportunity before the impugned notice is issued and he also drew our attention to the impugned notice issued by the respondent wherein there is no reference for providing such opportunity to the petitioner. Further, the learned counsel submitted that a construction of the building is prior to the Act which comes into force and further the petitioner is protected under the savings clause and this aspect has not been considered by the authority concerned and if an opportunity is granted to the petitioner, he will submit all the relevant materials before the authority concerned.



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4.The learned counsel appearing for the respondent Corporation has fairly agreed before this Court that the respondent Corporation has not provided any opportunity to the petitioner and therefore, the said impugned order passed by the respondent shall be treated as a show cause notice and if the petitioner has produced all the relevant records before the authority concerned, the same will be considered on merits and in accordance with law.

5.Considering the aforesaid submissions of the parties, we are of the view that the respondent Corporation has not provided any opportunity to the petitioner, in agreement with the contention of the respondent Corporation, we are inclined to pass the following orders:

- (i) The Writ Petition is disposed of.
- (ii) The impugned notice, dated 13.06.2022, issued by the respondent, shall be treated as a show-cause notice.



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(iii) The petitioner is directed to submit his objections / explanations to the show-cause notice along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order.

(iv) After receiving the objections / explanations from the petitioner as directed above, the respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks thereafter.

No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
27.03.2024

NCC : Yes / No
Index : Yes / No
ps

To

The Commissioner,
Thanjavur City Municipal Corporation,
Thanjavur.

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.12458 of 2022

DATED : 27.03.2024