



WEB COPY



W.P.(MD)No.7946 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.7946 of 2019

and

W.M.P.(MD)Nos.6281 & 6282 of 2019

M.Thirumalaiselvi

: Petitioner

Vs.

1.The Tiruchirappalli City Municipal Corporation,
Represented by its Commissioner,
Bharathidasan Salai,
Tiruchirappalli – 620 001.

2.The Assistant Commissioner,
Srirengam Zone,
Tiruchirappalli City Municipal Corporation,
Srirengam,
Tiruchirappalli – 620 006.

3.The Superintending Archeologist,
Archeological Survey of India,
Chennai Circle,
Fort St. George,
Chennai – 620 009.

: Respondents



WEB COPY

W.P.(MD)No.7946 of 2019



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records culminated in the impugned notice in Na.Ka.No.F1/7946/2017 dated 04.03.2019 passed by the first respondent and quash the same as illegal, void, ab-initio, ultra vires and for directing the respondents 1 and 2 to issue the planning permit and building license in respect of the building comprised in New T.S.No.35, 36, 37, New Ward A (F), New Block No.27 admeasuring to an extent of 1781 sq.ft situated at Vanappattarai Street, Tiruchirappalli Taluk and District in favour of the petitioner without insisting license or no objection certificate from the third respondent.

For Petitioner : Mr.Shangar Murali
For Respondents 1&2 : Mr.K.S.Kishore Ram
for M/s.R.B.Law Associates

O R D E R

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

The petitioner has initiated the present writ petition to demolish the old building and put up new building in T.S.Nos.35, 36, 37, New Ward A (F), New Block No.27 admeasuring an extent of 1781 sq.ft situated at Vanappattarai Street, Tiruchirappalli Taluk and District.



WEB COPY



W.P.(MD)No.7946 of 2019

2.The petitioner has submitted an application for the building plan approval and he has also paid necessary fees to the respondent Municipality. According to the petitioner, the “Main Guard Gate”, Tiruchirappalli is a protected monument under 'the Ancient Monuments and Archeological Sites and Remains, Act, 1958' [hereinafter referred to as 'the Act']. As per Section 20(A) of the said Act, no construction activities should be carried out within the 100 feet radius which is a prohibited area. As per Section 20(B) of the Act, the regulated area means 200 meters and construction activities can be carried out after getting license under Section 20(C) of the Act.

3.According to the petitioner, the property in question is not situated within the regulated area and it is above 300 meters.

4.In view of the above, since the location of the building is above 300 meters, the application of the petitioner may be considered. But the respondents have not considered the said application for grant of approval. The respondent Corporation has served notice to the petitioner to stop construction work and directed the petitioner to regularise the building in accordance with law. Accordingly, the petitioner has stopped all the construction activities. Aggrieved over the said order, the present

Writ Petition has been filed.



WEB COPY

W.P.(MD)No.7946 of 2019



5. According to the learned Standing Counsel for the respondent Corporation, the said building is located within the distance of 200 meters from the Main Guard Gate. Therefore, the said request of the petitioner cannot be considered for granting the building approval and hence, the Corporation issued stop work notice to the petitioner herein.

6. The petitioner has also stated in his affidavit that subsequent to the aforesaid notice, he has not proceeded with the construction activities in the aforesaid property. Now, the petitioner is seeking for consideration of his application for granting approval and according to the petitioner, the said building is located above 300 meters from the Main Guard Gate. Therefore, there is no legal impediment or there is no violation of the said regulations for granting approval to the petitioner.

7. The said fact is disputed by the respondent Corporation. Therefore, we direct the respondent Corporation to inspect the said property in question and to measure the distance from the Main Guard Gate and the petitioner's property, with the assistance of the Taluk Surveyor and in the presence of the petitioner. If it is found that the said building is within the prohibited distance and if there is any other violation of the building rules, it is open to the



WEB COPY



W.P.(MD)No.7946 of 2019

respondents to pass appropriate orders, rejecting the approval and shall take steps for removal of the unauthorised construction. On the other hand, if the petitioner's property is not within the prohibited distance and if all the other terms and conditions are satisfied, then the respondents shall consider the application of the petitioner for grant of approval. The said exercise shall be completed within a period of eight [8] weeks from the date of receipt of a copy of this order.

8.Accordingly, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K.,J.] & [R.V.,J.]
28.03.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



WEB COPY



W.P.(MD)No.7946 of 2019

To

- 1.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli – 620 001.

- 2.The Assistant Commissioner,
Srirengam Zone,
Tiruchirappalli City Municipal Corporation,
Srirengam,
Tiruchirappalli – 620 006.

- 3.The Superintending Archeologist,
Archeological Survey of India,
Chennai Circle,
Fort St. George,
Chennai – 620 009.



WEB COPY



W.P.(MD)No.7946 of 2019

D.KRISHNAKUMAR, J.

and

R.VIJAYAKUMAR, J.

MR

ORDER MADE IN

W.P.(MD)No.7946 of 2019

28.03.2024