

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HALUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.18727 of 2016

K.M.Dhandapani

.. Petitioner

-vs-

1. The Member Secretary
Coimbatore Local Planning Authority
Tatabad, Sivanandha Colony
Coimbatore 641 012
2. The Commissioner
Coimbatore City Municipal Corporation
Coimbatore 641 001
3. The District Collector
Coimbatore District
District Collectorate campus
Coimbatore 641 018
4. The Secretary to Government
Ministry of Housing and Urban
Development Department
Secretariat, Fort St.George
Chennai 600 009

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records comprised in the notice dated 19.01.2016 bearing Na.Ka.No.6760/2015/U.The.Ku-3 and the consequential notice dated 02.05.2016 bearing Na.Ka.No.6760/2015/U.The.Ku-3 issued by the first respondent and quash the same as being arbitrary, illegal and without application of mind and consequently direct the first respondent to consider the revised building plan submitted by the petitioner.

For Petitioner :: Mr.Satish Parasaran
Senior Counsel for
Mr.R.Parthasarathy

For Respondents :: Mrs.A.Srijayanthi
 Special Government Pleader for
 RR1, 3 & 4
 Mr.J.Sathyanarayana Prakash for R2

ORDER

(Order of the Court was delivered by HALUVADI G.RAMESH, J.)

The petitioner has sought for a prayer to quash the impugned notices dated 19.1.2016 and 2.5.2016 issued by the first respondent, by which the petitioner has been directed to stop the construction activities in the building situate at No.34/138, Kalidas Road, Ramnagar, Coimbatore, failing which the building would be placed under lock and seal, alleging that the same are arbitrary, illegal and also to issue a mandamus to the first respondent to consider the revised development plan submitted to the first respondent on 31.5.2016.

2. Mrs.A.Srijayanthi, learned Special Government Pleader takes notice on behalf of the respondents 1, 3 & 4 and Mr.J.Sathyanarayana Prakash, learned counsel takes notice on behalf of the second respondent.

3. According to the petitioner, he is in peaceful possession and enjoyment of the subject property ever since the year 1980, originally as tenant and presently as owner, and since the construction put up by the predecessor in title was nearly 80 years old, the petitioner decided to demolish the old structure and put up a new construction. In this regard, he also submitted necessary application before the authorities for sanction of building permit and the same was accorded vide Building Permit No.188/2014 dated 2.12.2014 and No.0056/2015 dated 17.2.2015. Pursuant thereto, the petitioner demolished the old building in toto and constructed a new building consisting of Stilt + 3 Floors and also occupied the building during the last week of April, 2016. Now alleging violation of the sanctioned plan, action is sought to be taken by the respondents/authorities and in that process, they are also contemplating to lock and seal the premises situated at No.34/138, Kalidas Road, Ramnagar, Coimbatore and for demolition of the construction etc. Hence this petition.

4. Learned senior counsel for the petitioner submitted that when the petitioner has submitted a revised plan under Section 56 of the Town and Country Planning Act before the respondents/authorities, until the revised plan is considered, the respondents cannot take any coercive steps.

5. Having heard the learned senior counsel for the petitioner, learned Special Government Pleader for the respondents 1, 3 & 4 and the learned counsel for the second respondent, we are of the view that for any reason of the alleged violation, if the subject building is locked and sealed, the same may be removed and the first and second respondents/authorities are further directed to consider the revised plan submitted by the petitioner on 31.5.2016 within a period of one month and to do the needful in accordance with law. It is for the petitioner to appear before the first and second respondents/authorities for further grievance, if any, to have a say in the matter. The writ petition is disposed of accordingly. Consequently, W.M.P.Nos.16355 to 16357 of 2016 are closed. No costs.
ss

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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Chennai 600 009

+ 6 ccs to Mr.Sathish Parasaran, Advocate SR 29967 & 29651

+ 1 cc to Mr.J.Sathya Narayana Prasad, Advocate SR 29677

kji(co)
prk6/6

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