

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 23-09-2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.33120 of 2016

Vellalar Educational Trust

Petitioner

-vs-

1.The District Collector,
Erode District,
Collectorate,
Erode.

2.The Deputy Collector,
Town and Country Planning,
Salem Region,
Salem.

Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records pertaining to the impugned notices of the second respondent in Na.Ka.No.979/2011-Sema-3, dated 31.08.2012, and in Roc.No.1537/2014 SR-3, dated 13.02.2015, and quash the same and consequently direct the respondents to accept the building plan approval obtained from Executive Authorities of Village Panchayats in accordance with Tamil Nadu Panchayat Building Rules.

For petitioner : Mr.R.Narayanan

For respondents : Mr.P.S.Sivashanmugasundaram,
Spl.Govt.Pleader.

ORDER

(Order of the Court was made by Huluvadi G.Ramesh, J.)

Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondents.

2. Petitioner has filed this Writ Petition, seeking for issuance of a writ of certiorarified mandamus, to call for the records pertaining to the impugned notices of the second respondent in Na.Ka.No.979/2011-Sema-3, dated 31.08.2012, and in Roc.No.1537/2014 SR-3, dated 13.02.2015, and quash the same and consequently direct the respondents to accept the Building Plan Approval obtained from Executive Authorities of Village Panchayats in accordance with Tamil Nadu Panchayat Building Rules.

3. According to the petitioner, theirs is a registered Educational Trust, imparting education to the students; the petitioner constructed school and college building during the years 1980 to 2009 by obtaining proper Building Plan Approval from the authority concerned as per the Tamil Nadu Panchayat Building Rules from the Executive Authorities of the local body; their institutions come under the jurisdiction of Thindal and Villarasampatti Panchayats in Erode Taluk; the Erode Municipality has been upgraded to Corporation in the year 2008; thereafter, in the year 2013, vide G.O.Ms.No.148, dated 20.06.2013, a notice was published, intending to include Thindal and Villarasampatti areas in the Erode Planning area; that being so, without considering the fact that the petitioner trust has already got proper building plan approval from the lawful authority, the impugned notices have been issued, calling upon the petitioner to obtain fresh building plan approval, which is against the law and rules. The further case of the petitioner is that the prior building plan approval was obtained in accordance with law and rules and it is valid and binding on the second respondent and, therefore, the impugned notices are arbitrary and not sustainable.

4. Heard the learned counsel for the parties.

5. The petitioner appears to have submitted the Building Plan Approval issued by the local panahayat to the second respondent, but, as per the requirement under Section 47-A of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner has to obtain fresh plan for the construction put up by the petitioner. Therefore, it is for the petitioner to submit an application to the second respondent within a period of 15 days from the date of receipt of a copy of this order and, thereafter, it is for the second respondent to do the needful in accordance with law, within a period of two months. Further, it is for the petitioner to submit reply to the notices and, thereafter, it is for the second respondent/authority to take a decision in accordance with law.

6. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.28640 of 2016 is closed.

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Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

dixit

To

1.The District Collector,
Erode District,
Collectorate,
Erode.

<https://hcservices.courts.gov.in/hcservices/>

2.The Deputy Collector,
Town and Country Planning,
Salem Region,
Salem.

1 cc to M/s.S. Manoharan, Advcate, Sr. 54402
1 cc to Government Pleader, Sr. 54601
1 cc to Government Pleader, Sr. 54696

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