

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.366 of 2018
and
W.M.P.No.425 of 2018

Sheik Ameer,
S/o Late S.Mohamed Umar
Muthavlli,
Masjid-e-Ihlass Sunnath Jamath Masjid
and Madarasa,
No.49, Mahalakshmi Nagar,
Ward No.15, Velampalayam,
Thiruppur District. .. Petitioner

Vs.

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development,
Fort St.George,
Chennai-600 009.
2. The Commissioner,
Toruppur Municipal Corporation,
Kumaran Road,
State Highway 169,
Novyal, Tiruppur.
3. The Commissioner,
Town and Country Planning,
807, Anna Salai,
Chennai-600 002.
4. The Assistant Director/Member Secretary,
Tiruppur Municipal Planning Commission,
Kamrajar Salai,
Tiruppur. ..Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's application dated 08.12.2017 for approval of planning permission for proposed correction/rectification in the existing building of a Mosque at No.49, Mahalakshmi Nagar, Ward No.15, Velampalayam, Tiruppur situated in S.F.Nos.263/2F, 264/3A, 3B, 4B and within the time frame to be fixed by this Court.

For petitioner : Mr.R.Natarajan
For respondents: Mr.R.Venkatesh,
Govt. Advocate for RR-1, 3 & 4
Mr.K.Shakthivel for M/s.P.Shanthi,
Standing Counsel for R-2

ORDER

(The Order of the Court was made by S.Vaidyanathan, J)

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's application dated 08.12.2017 for approval of planning permission for proposed correction/rectification in the existing building of a Mosque at No.49, Mahalakshmi Nagar, Ward No.15, Velampalayam, Tiruppur situated in S.F.Nos.263/2F, 264/3A, 3B, 4B, within the time frame to be fixed by this Court.

2. The petitioner submitted that pursuant to the order dated 28.09.2017 passed by the Additional Secretary (Technical), Housing and Urban Development Department, Secretariat, Chennai, the petitioner has made an application for rectification of the defects pointed out by the authorities and the application seeking approval of the plan was submitted on 08.12.2017 by Registered Post Acknowledgement Due (RPAD) to the respondents 2 to 4. According to the petitioner, no approval was granted and no conditions were imposed, and the petitioner commenced his operations in the property. The grievance of the petitioner is that he is not able to conduct the prayer. We are not deciding the issue as to whether the building in question is meant for religious purpose and prayer can be conducted or not. As there is a specific finding of the authorities pursuant to the direction of a Division Bench of this Court in W.P.No.26715 of 2016, dated 10.11.2016 to dispose of the appeal within a period of three months from the date of order, the appellate authority has passed the order on the appeal without rendering any finding on the points raised by the petitioner. Hence, we direct the second respondent-Commissioner of Tiruppur Municipal Corporation, Tirupur, to decide the application, dated 08.12.2017 sent by the petitioner pursuant to the order dated 28.09.2017 of the first respondent-Department and the second respondent is directed to decide the said application/request,

dated 08.12.2017 within a period of 15 days from the date of receipt of a copy of this order, after giving an opportunity of hearing to the petitioner and the complainant, if any. We make it clear that the order passed by the first respondent-Department on 28.09.2017 discussed supra, is not stayed by this Court till a decision is taken by the authorities.

3. With the above observations and direction, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development,
Fort St.George, Chennai-600 009.
2. The Commissioner,
Toruppur Municipal Corporation,
Kumaran Road, State Highway 169,
Novyal, Tiruppur.
3. The Commissioner,
Town and Country Planning,
807, Anna Salai, Chennai-600 002.
4. The Assistant Director/Member Secretary,
Tiruppur Municipal Planning Commission,
Kamrajar Salai, Tiruppur.

+2 ccs to Ms.G.Lavanya Advocate sr 1422
+1 cc to Govt Pleader sr 2987
+1 cc to Ms.P.Shanthi Advocate sr 2132

W.P.No.366 of 2018

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