

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.21799 of 2019
and W.M.P.No.21005 of 2019

Mrs.Jeyameena

.. Petitioner

/versus/

- 1.The Secretary to Government,
Municipal Administrator and Water Supply Department,
Fort St.George, Chennai-600 009.
 - 2.The District Collector,
Cuddalore District,
Cuddalore.
 - 3.The Executive Officer,
Office of Town Panchayat,
Thittakudi, Cuddalore District.
- .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari, to call for the entire records relating to impugned proceedings in Moo.Mu.No,253/2018A1 dated 05.07.2019.

For Petitioner : Mr.Nithianaadam.N

For Respondents : Mr.K.Ravikumar, AGP for R1 & R2

: Mr.V.Jayaprakash Narayanan for R3

सत्यमेव जयते
O R D E R

The impugned order was passed in exercise of power under Section 205 of the Tamil Nadu Municipalities Act, 1920, wherein, the petitioner herein who has violated the Building Plan permission and illegal put up a third floor. Hence the 3rd respondent has caused notice to explain. The petitioner received the same and given his explanation admitting the violation, but he has not expressed anything to justify the violation or ratify the violation. Therefore, the Executive Officer has passed an order cancelling the building license granted to the petitioner and said order is now under challenge.

2. According to the petitioner under Section 205 of the Tamil Nadu Municipalities Act, the building plan approval already granted cannot be cancelled to the extent if the building is in conformity to the approval granted by the Executive Officer, Thittakudi Town Panchayat. At the most, the deviation should have been pointed out and action can be taken only for the deviation and not for the entire building which substantially confirms the plan approved. This Court peruse the provision of the Tamil Nadu Municipalities Act particularly under Section 205, which reads as below:-

"205. Power of Executive Authority to require alteration of work.

(1) If the [Executive Authority] finds that the work-

(a) is otherwise than in accordance with the plans or specifications which have been approved; or

(b) contravenes any of the provisions of this Act or any by-law, rule, order or declaration made thereunder, he may, by notice, require the owner of the building within a period stated either

(i) to make such alterations as may be specified in the said notice with the object of bringing the work into conformity with the said plans or provisions, or

(ii) to show cause why such alterations should not be made.

(2) If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If the owner shows cause as aforesaid, the [Executive Authority] shall, by an order, cancel the notice issued under sub-section (1), or confirm the same subject to such modifications as he may think fit."

3. After notice the owner of the building not attempted to undo the violation or made any attempt to ratify the violation, he has only informed that without proper knowledge he has put up the third floor making huge investment. This cannot be a ground to allow the petitioner to sustain the deviation. Since the building owner has failed to rectify the violation, the Executive Authority has cancelled the building plan permission given to the petitioner in exercise of his power under Section 205.

4. This Court finds no error or illegality in the impugned order. It is open to the petitioner herein to demolish the unauthorised construction and seeks for revival of building plan approval granted to him. In such case, the respondent shall consider the request and pass appropriate orders.

5. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

rpl
To

1. The Secretary to Government,
Municipal Administrator and Water Supply Department,
Fort St. George, Chennai-600 009.
2. The District Collector,
Cuddalore District,
Cuddalore.
3. The Executive Officer,
Office of Town Panchayat,
Thittakudi, Cuddalore District.

+1 CC to Mr. Nithianaadam.N, Advocate sr 84075
+1 CC to Mr. V. Jayaprakash, Advocate sr 84649
+1 CC to Govt. Pleader sr 84531.

W.P.No.21799 of 2019
and W.M.P.No.21005 of 2019

VGII (CO)
SP (15/11/2019)

सत्यमेव जयते

WEB COPY