



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.21778 of 2019

M/s.Sree Saai Associates,
Rep. by its Managing Partner,
Mr.K.Suresh Babu,
No.38, South Fort Street,
Vriddhachalam.

... Petitioner

/verus/

The Commissioner,
Vriddhachalam Municipality,
Vriddhachalam.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records comprised in the proceedings of the respondent dated 22.04.2019 in proceedings Ka.Ma.No:096/CP/18-19/0000120, and quash the same as arbitrary and illegal and consequently direct the respondent to grant planning permission within the time to be fixed by this Hon'ble Court and pass orders.

For Petitioner : Mr.M.Venkatakrisnan

For Respondent : Mr.R.P.Prathap Singh
Government Advocate

सत्यमेव जयते
O R D E R

Heard the Learned Counsel for the Petitioner and after due notice to the respondent, the respondent is represented by his Counsel. no counter filed.

2. The case of the petitioner is that, they are the promoter of the land bearing R.S.No.60/2B, junction road, Vriddhachalam Town measuring around 0.08 ¼ cents out of 0.16 ½ cents. They entered into a lease agreement with the owner for 96 years and the lease deed is duly registered at Sub-Registrar

Office, Vriddhachalam vide document No.2287 of 2016, dated 22.06.2016. When the petitioner sought for planning permission, same was rejected by the Municipality, stating that the petitioner is not the owner of the land.

3. The learned Counsel appearing for the petitioner would submit that, as per the lease agreement entered between the owner and the petitioner, the lessor has permitted them to apply for approval of building plan and for infrastructure facilities like water and electricity connection.

4. As far as, Tamil Nadu District Municipalities Building Rules, 1972 is concerned, the applicant for building plan permission shall either be the owner or a person who has authorisation or consent from the owner and for that purpose of planning permission or building permit, the lease holder is fully competent to apply. Contrary to this rule, the reason that the petitioner is not the owner of the land, the respondent/Commissioner, Vriddhachalam, has passed impugned order dated 22.04.2019, which is liable to be quashed.

5. The Learned Counsel for the respondent would submit that, the provision of Municipalities Rules though permits, a lessor to apply for planning permit, the documents furnished by the petitioner was not satisfactory to accept the same and hence, the impugned order was passed on 22.04.2019.

6. The contention of the respondent counsel does not appears to be sustainable in view of the provisions of the Tamil Nadu District Municipalities Building Rules, 1972.

7. As per Rules 3 of the Tamil Nadu District Municipalities Building Rules, 1972:- Every person, who intends to construct, reconstruct or alter or add to a building other than a hut, shall submit an application to the Executive Authority for the approval of the site in the prescribed Form.

8. Rules 3(iii) of the said Act, specifically deals with the eligibility of the applicant for easy reference is extracted below:-

The application as well as the plans and specifications shall be signed by the owner of the site and building or be accompanied by a letter or authority or consent from the owner of the site and building if the applicant himself is not the owner. They shall also be signed by a licensed builder, surveyor, architect or engineer, in case the bye-laws of the municipal council require the compulsory employment of a licensed builder, surveyor,

architect or engineer in the construction, reconstruction or alternation of or addition to a building.

9. Part -II of Tamil Nadu Combined Development and Building Rules, 2019, which deals with, Manner of Obtaining Permission under clause 6, enables the leaseholder or power of attorney holder of the owner of the land to submit application. The said provision is extracted below:

6. Application for Planning Permission and Building Permit:-

(1) For the purpose of obtaining planning permission or building permit, the applicant who should be the owner of the land or leaseholder or power of attorney holder who has right over the land to develop, shall submit an application on-line in the prescribed Form to the Competent Authority.

10. Therefore, the impugned order passed by the respondent/Commissioner, Vriddachalam Municipality is quashed. The petitioner herein is directed to submit fresh application to the respondent. On receipt of the application by the respondent, shall consider the above said provision of law and pass appropriate order within a period of four weeks.

11. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm
To,

The Commissioner,
Vriddhachalam Municipality,
Vriddhachalam.

+1cc to M/s.R.P.Prathap Singh, Advocate Sr.75914

W.P.No. 21778 of 2019

vsni[co]
srg 27/09/2019