

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.25196 of 2018 and

W.M.P.No.29291 of 2018

Muthukrishnan

... Petitioner

Vs.

- 1.The State of Tamil Nadu
rep by its Secretary,
Rural and Local Administration Department,
Chennai.
- 2.The Principal Secretary to
Government of Tamil Nadu,
Municipal Administration & Water Supply
(River - 1) Department,
Fort St.George, Chennai.
- 3.The Deputy Director,
Town and Country Planning,
Coimbatore.
- 4.The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records pertaining to the impugned order letter (PA).No.302/Na thi 1/2018 dated 23.07.2018 from the file of the 2nd respondent, quash the same and issue consequential direction directing the 2nd respondent to allow the above review petition of the petitioner dated 11.05.2010 and eventually to cancel and recall the impugned show cause notice issued by the 4th respondent.

For Petitioner : Mr.R.Ganesan

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1 to R3)

Mr.P.Srinivas (R4)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records pertaining to the impugned order dated 23.07.2018 on the file of the 2nd respondent, to quash the same and to issue consequential direction directing the 2nd respondent to allow the review petition of the petitioner dated 11.05.2010 and eventually to cancel and recall the impugned show cause notice issued by the 4th respondent.

2.The petitioner contended that he obtained planning approval for constructing a Ground plus two storeyed building from the 4th respondent and therefore, taking action against the said building is illegal.

3.The 2nd respondent filed a Status Report wherein it has been stated that the petitioner has constructed the building without the approval of the Udhagamandalam Municipality, therefore, demolition notice was issued. As against the same, the petitioner preferred a Review Petition to the Government, which was rejected by order dated 23.07.2018 after conducting personal hearing.

4.On a perusal of the photograph produced by the learned counsel appearing for the petitioner, it is clear that the petitioner has not left any set-back for the said building. That apart, the 2nd respondent has also stated that the petitioner constructed an additional Floor without leaving any set-back. It is also pertinent to note that the petitioner relied upon a Completion Certificate dated 15.10.2018 purported to be issued by the Commissioner, Udhagamandalam Municipality. The 2nd respondent in the Status Report dated 28.01.2019 has categorically stated that the said Completion Certificate was found to be improper/false and was issued without ascertaining the factual position. Further, the 2nd respondent has stated that the Municipal Administration has been instructed to initiate appropriate departmental disciplinary action against the then Commissioner, Udhagamandalam Municipality and the then Revenue

Inspector for the lapses. Accordingly, disciplinary action was initiated under Rule 17(a) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules against the then Commissioner, Udhagamandalam Municipality. Therefore, from the categorical statement made by the 2nd respondent, it is clear that the Completion Certificate issued by the then Commissioner, Udhagamandalam Municipality is false, which cannot be relied upon for any purpose, whatsoever.

5. When the petitioner has violated the rules, no indulgence can be shown to him. Even in the impugned order dated 23.07.2018, the 2nd respondent has categorically stated that the petitioner has put up 100% unauthorized construction and therefore, the Review Petition was rightly dismissed by the 2nd respondent. We do not find any error or irregularity in the order passed by the 2nd respondent. The Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu
Rural and Local Administration Department,
Chennai.
2. The Principal Secretary to
Government of Tamil Nadu,
Municipal Administration & Water Supply
(River - 1) Department,
Fort St. George, Chennai.
3. The Deputy Director,
Town and Country Planning,
Coimbatore.

4.The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

+1cc to the Government Pleader Sr.53041
+1cc to Mr.P.Srinivas, Advocate Sr.52568
+1cc to Mr.R.Ganesan, Advocate Sr.52128

[07/08/2019]

W.P.No.25196 of 2018 and
W.M.P.No.29291 of 2018

vp[col]
srg 01/08/2019