

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P.NPDs 2634, 2635, 2669, 2956 & 2957 of 2015

and
M.P.s 1 to 1 of 2015

- A. Syed Ali .. Petitioner in
C.R.P.2634/2015
- Selvarani .. Petitioner in
C.R.P.2635/2015
- V.Usha .. Petitioner in
C.R.P. 2669/2015
- Kamala .. Petitioner in
C.R.P. 2956/2015
- St. Joseph Boys Higher Secondary
School, rep. by its Principal
J.Ramesh Amalanathan .. Petitioner in
C.R.P. 2957/2015
- Versus
1. The Government of Tamil Nadu,
rep. by its Secretary,
Municipal Administration and
Water Supply (MA1) Department,
Secretariat, Chennai-600 009.
2. Commissioner,
Udhagamandalam Municipality at
Udhagamandalam,
The Nilgiris. .. Respondents in
all C.R.P.s

PRAYER in C.R.P. NPD 2634 of 2015 : Civil Revision Petition is filed under Sec.217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 read with Sec.115 C.P.C., praying to set aside the G.O. (Pa) No.28/M.A.1/2015, dated 20.01.2015 and signed on 27.01.2015 issued by the Principal Secretary to Government, Municipal Administration and Water Supply (M.A.1) Department, Secretariat, Chennai-9, the 1st respondent herein in confirming the order passed by the Commissioner, Udhagamandalam Municipality in UAC No.12/2000/S, dated 03.02.2009, the 2nd respondent herein.

PRAYER in C.R.P. NPD 2635 of 2015 : Civil Revision Petition is filed under Sec.217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 read with Sec.115 C.P.C., praying to set aside the G.O. (Pa) No.182/M.A.1/2015, dated 16.03.2015 and passed by the Principal Secretary to Government, Municipal Administration and Water Supply (M.A.1) Department, Secretariat, Chennai-9, the 1st respondent herein and served in person on 22.05.2015 by the subordinates of the 2nd respondent herein in confirming the order passed by the Commissioner, Udhagamandalam Municipality in UAC No.7/1999/S, and 19/2000/S dated 24.03.2010, the 2nd respondent herein.

PRAYER in C.R.P. NPD 2669 of 2015 : Civil Revision Petition is filed under Sec.217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 read with Sec.115 C.P.C., praying to set aside the Government Letter (pa) No.168/Na.Nee.1/2015 dated 13.03.2015 confirming the order of the 2nd respondent in UAC No.04/2005/N, dated 10.04.2008 and served on 22.05.2015 through the 2nd respondent herein.

PRAYER in C.R.P. NPD 2956 of 2015 : Civil Revision Petition is filed under Sec.217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 read with Sec.115 C.P.C., praying to set aside the Government Letter (pa) No.167/Na.Nee.1/2015 dated 13.03.2015 confirming the order of the 2nd respondent in UAC No.16/1998/N, dated 17.10.2008 and served on 22.05.2015 through the 2nd respondent herein.

PRAYER in C.R.P. NPD 2957 of 2015 : Civil Revision Petition is filed under Sec.217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 read with Sec.115 C.P.C., praying to set aside the Government Letter (pa) No.114/Na.Nee.1/2015 dated 20.02.2015 confirming the notice of the 2nd respondent in UAC No.3087/1995/F1, dated 11.08.2011 and the same was received from the office of the 1st respondent on 29.05.2015 in person.

For Petitioners in C.R.P.s 2634 &

2635 of 2015 : Mr. N.Damodaran

For Petitioners in C.R.P.s 2669

2956 & 2957 of 2015 : Mr. M.Muthappan

For Respondent in all C.R.P.s : Mr. Y.T.Aravind Gosh
Govt. Adv. for R1

: Mr.S.Kadarkarai for R2

COMMON ORDER

These Civil Revision Petitions have been filed challenging the order passed by the respondents for the removal of unauthorised construction.

2. The petitioners in all the Civil Revision Petitions are the owners of residential buildings. Earlier, the 2nd respondent Municipality issued a show cause notice under Sec.217-B(1) and 217-J(1) of Tamil Nadu District Municipalities Act, (hereinafter called as 'Act') alleging that, they have put up construction unauthorisedly and also alleging that there are deviations in the approved plan. After considering the objections submitted by the respective petitioners, and after conducting enquiry, finally order came to be passed under Sec.217-J(2) of the Act.

Challenging the order of demolition, the petitioners have filed a review petitions before the 1st respondent Government under Sec.217-K of the Act. The Government after considering the review petitions, after giving reasonable opportunity of hearing, and also considering the objections of petitioners, dismissed the review petitions, thereby confirmed the order passed by the 2nd respondent. Now, challenging the same, present Civil Revision Petitions have been filed.

3. I have heard Mr.M.Damodaran, and Mr.M.Muthappan, learned counsel appearing for petitioners as well as learned Government Advocate appearing for 1st respondent and learned counsel appearing for 2nd respondent, and perused the records carefully.

4. On perusal of the order passed by the 2nd respondent, it could be seen that, there is not only a deviation, but also there are unauthorised constructions. The authorities after giving reasonable opportunity of hearing, and also considering the petitioners objections, passed an order under Sec.217-J(1) of the Act. The 1st respondent, Revisional authority, also after

considering entire materials available on record, and after conducting proper enquiry, had confirmed the order passed by the 2nd respondent. I have also considered the materials, and also submissions made by the learned counsel appearing for petitioners, as well as learned Government Advocate appearing for 1st respondent and learned counsel appearing for 2nd respondent. On a careful perusal of entire materials, I find no reason to interfere with the concurrent finding of both authorities, and I find no merit in these Civil Revision Petitions.

5. Mr.M.Damodaran, learned counsel appearing for petitioners would submit that, they are all poor people, and they have put up a residential building and residing therein. Now, some of the petitioners have filed an application under Sec.217-Q of the Act before the Government seeking for exemption, and also relaxation. Those applications are pending for consideration before the 1st respondent Government. Hence, the 1st respondent may be directed to consider their applications and pass suitable orders. According to the counsel, some of the petitioners yet to file their applications, and they will also file the

applications within a time fixed by the Court. On filing such applications, the Government may be directed to consider the same.

6. Considering the above circumstances, all the petitioners are permitted to file fresh applications irrespective of the fact that, whether they have already filed applications seeking for exemption under Sec.217-Q of the Act, and on filing such applications, the 1st respondent Government is directed to consider their applications, and pass suitable orders on merits in accordance with law. The petitioners are directed to submit their applications within a period of two weeks from the date of receipt of copy of this order. Thereafter, the 1st respondent Government is directed to consider their applications, and pass suitable orders within a period of twelve weeks after giving the reasonable opportunity to the petitioners. Till the orders being passed by the 1st respondent, the 2nd respondent is directed not to take any coercive steps for demolition.

7. With the above direction, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

20.02.2020

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
rpp

To

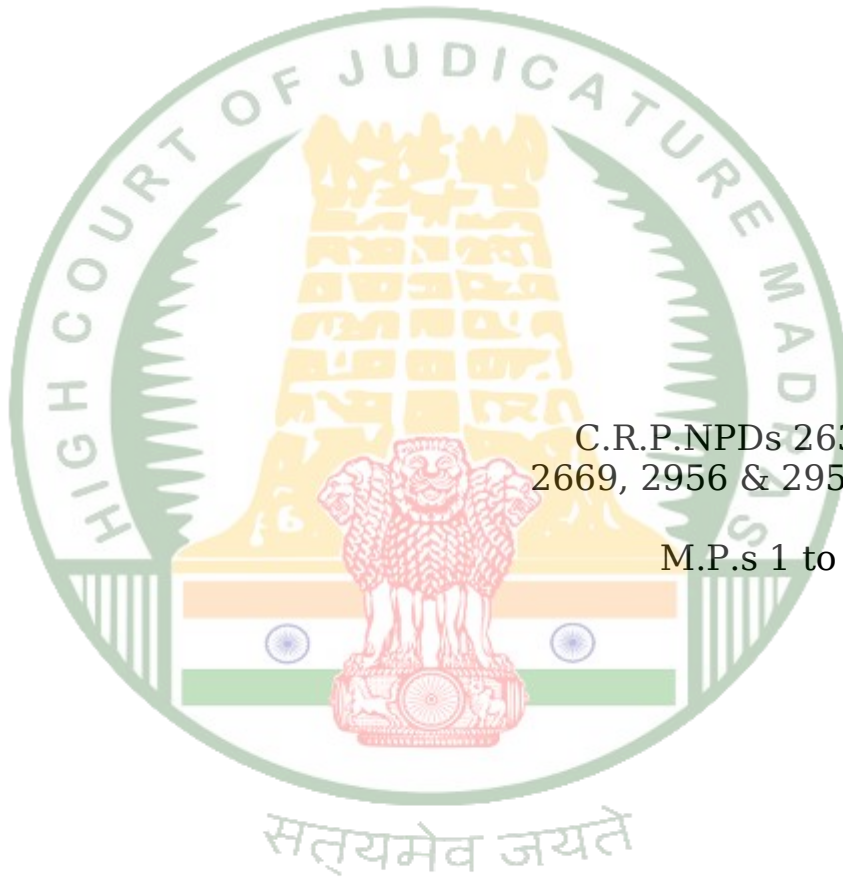
1. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and
Water Supply (MA1) Department,
Secretariat,
Chennai-600 009.
2. The Commissioner,
Udhagamandalam Municipality at
Udhagamandalam,
The Nilgiris.

सत्यमेव जयते

WEB COPY

V.BHARATHIDASAN,J.

rpp



C.R.P.NPDs 2634, 2635,
2669, 2956 & 2957 of 2015
and
M.P.s 1 to 1 of 2015

WEB COPY 20.02.2020