

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(NPD).No.3117 of 2015

and

M.P.No.1 of 2015

T.K.Narayanan

... Petitioner

Vs.

1.The Secretary to Government,
State of Tamilnadu,
Municipal Administration and
Water Supply Department,
Fort St, George, Chennai – 600 009.

2.The Commissioner,
Gudalur Municipality,
Gudalur, Nilgiris.

... Respondents

Prayer: Civil Revision Petition is filed under Section 217-L of the Tamilnadu District Municipalities Act, Act V of 1920 as amended by Tamilnadu Act VIII of 1992 read with Section 115 of CPC, to set aside the order of the 1st respondent passed in Government Letter (pa) No.309/Na.Nee.1/2015 dated 14.05.2015 by confirming the order of the 2nd respondent Uac No.19/2014/TPI dated 08.12.2014 and served on 10.06.2015 through the 2nd respondent.

For Petitioner

: Mr.S.M.Muthappan

For Respondents

: Mr.A.Dev Narendran,
Government Advocate (CS)

ORDER

This Civil Revision Petition has been filed challenging the order passed by the respondents for the removal of unauthorised construction.

2. The petitioner in this Civil Revision Petition is the owner of residential building. 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, the petitioner herein has put up construction unauthorisedly and also alleging that there are deviations in the approved plan. After considering the objections submitted by the petitioner, and after conducting enquiry, finally order of demolition came to be passed under Sec.217-J(2) of the Act. Challenging the order of demolition, the petitioner has filed a review petition before the 1st respondent Government under Sec.217-K of the Act. The Government after considering the review petition, after giving reasonable opportunity of hearing, and also considering

the objections of the petitioner, dismissed the review petition, thereby confirmed the order passed by the 2nd respondent. Now, challenging the same, present Civil Revision Petition has been filed.

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

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 petitioner's 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 petitioner, 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 findings of both the authorities, and I find no merit in this Civil Revision Petition.

5. Mr.M.Muthappan, learned counsel appearing for petitioner would submit that, the petitioner is a poor, and he has put up a residential building and residing therein. He further submitted that some of the persons who have put up constructions deviating the approved plan have submitted applications before the Government seeking for exemption and also relaxation and those applications are pending for consideration before the 1st respondent Government.

6. He further submitted that this Court in similar petitions viz., CRP.No.2634, 2635, 2956 & 2957 of 2015 has passed order vide 20.02.2020 permitting the petitioners therein to submit a fresh application before the first respondent seeking exemption/relaxation under Section 217 of the Act and also directed the first respondent to dispose of the

said application and hence he requests to pass similar order in this Civil Revision Petition also.

7. Considering the above circumstances, the petitioner herein is permitted to submit a fresh application irrespective of the fact that, whether has already filed application seeking for exemption under Sec.217-Q of the Act, and on submitting such application, the 1st respondent Government is directed to consider the said application, and pass appropriate orders on merits in accordance with law. The petitioner is directed to submit his application within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the 1st respondent Government is directed to consider the said application, and pass appropriate orders within a period of twelve weeks after giving reasonable opportunity to the petitioner. Till the orders being passed by the 1st respondent, the 2nd respondent is directed not to take any coercive steps for demolition.

8. With the above directions, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.11.2020

Index :Yes/No
Internet : Yes/No
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To

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- 2.The Commissioner,
Gudalur Municipality,
Gudalur, Nilgiris.

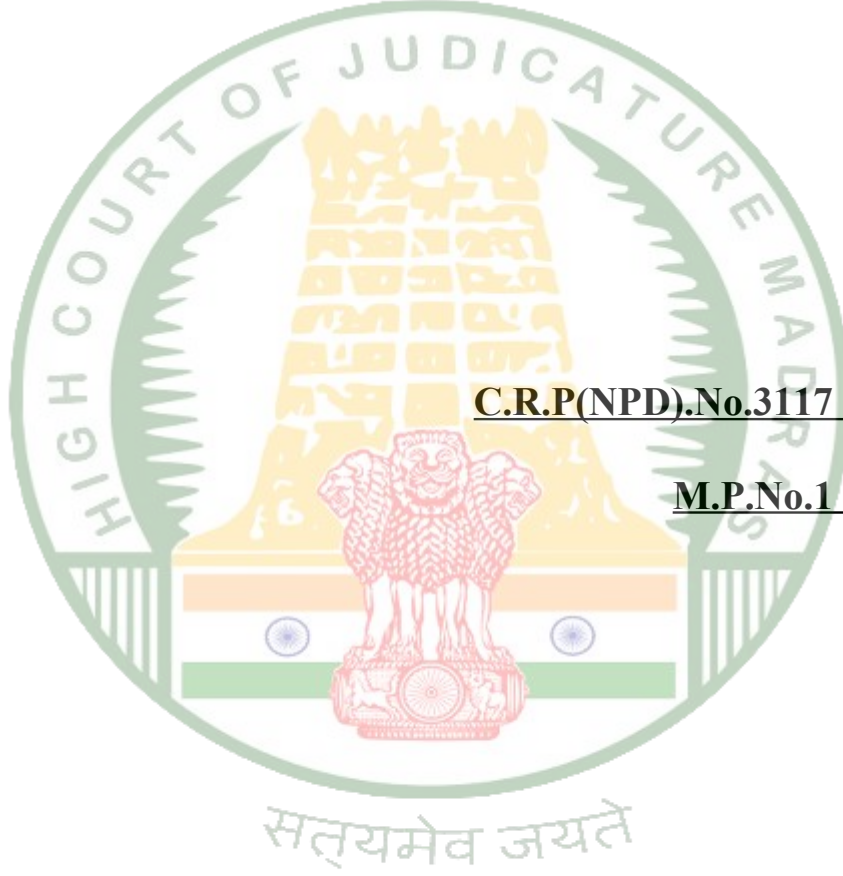


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