

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE T.V.THAMILSELVI

W.P.NO.20041 OF 2018
&
W.M.P.NO.23504 OF 2018

Dr.M.Murali

.. Petitioner

Vs.

1. The Principal Secretary,
Municipal Administration and
Water Supply (M.A.1) Department,
Secretariat, Chennai 600 009.
2. The Commissioner,
Coonoor Municipality,
Nilgiris.

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the 1st rsepondent proceedings in Government Letter No.21477/Na.Nil/2017-2 dated 11.06.2018 and quash the same and direct the 1st respondent to grant exemption with respect of set back area for the petitioner's building situated at Door No.23, R.S.No.1715/2, Ward-B, Block-19, and T.S.No.43 over an extent of 0.00.92 hectares in Mount Road, Coonoor, Nilgiris.

For Petitioner :: Mr.M.Muthappan

For Respondents:: Mr.S.Kamalesh kannan
Government Advocate R1
Mr.R.Subburaj for R2

O R D E R

(Order of the Court was made by N. KIRUBAKARAN,J.)

This writ petition has been filed challenging the order passed by the 1st respondent vide proceedings in Government Letter No.21477/Na.Nil/2017-2 dated 11.06.2018 by which the request of the petitioner for grant of exemption of set back area has been rejected.

2. The case of the petitioner is that the petitioner's mother had purchased a house property together with building in R.S. No. 1715/2 in Ward B Block-19, T.S. No. 43 at Door No. 28, Mount Road, Coonoor, Nilgiris District by virtue of a registered sale deed dated 30.08.2010 and by way of settlement deed dated 10.03.2011, the petitioner's mother had settled the said property in the name of the petitioner. According to the petitioner, the age of the building is 108 years. After obtaining the property, the petitioner had demolished the building and put up construction, namely ground floor + two floors. However, the 2nd respondent issued a show cause notice stating that the construction is not as per the approved plan. Hence, the petitioner submitted a revised plan on 19.01.2016. Thereafter, the Municipality put a lock and seal of the building and the application of the petitioner was returned on 28.01.2016. Subsequently, the petitioner made a representation to the 1st respondent on 22.01.2016 requesting to remove the lock and seal in order to rectify the violations pointed by the authorities. By order dated 26.02.2016, the 1st respondent had directed the 2nd respondent to remove the lock and seal for a period of 2 months in order to carry out the rectification work. Pursuant to the said direction, the petitioner was allowed to carry out the rectification of the building and after rectifying the violations pointed out, the petitioner made a representation to the 1st respondent along with revised plan requesting to grant exemption only with respect to setback area. However, by the impugned order dated 11.06.2018, the petitioner's representation was rejected. Hence, the present writ petition.

3. Heard Mr.M.Muthappan, learned counsel for the petitioner and Mr.S.Kamalesh Kannan, learned Government Advocate for the 1st respondent and Mr.R.Subburaj, learned counsel for the 2nd respondent.

4. Mr.M.Muthappan, learned counsel for the petitioner would submit that the building has been sealed and there is no occasion for the petitioner to set right the violations, as pointed out by the 2nd respondent.

5. In view of the above submission made by the learned counsel for the petitioner, the 2nd respondent shall desal the building so that the petitioner could correct the violations, as pointed out and apply for revised plan. On receiving the said application, the 2nd respondent shall visit the property and thereafter pass orders in accordance with law. The whole exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. It is made clear that the petitioner shall not make use of the building till such time except for rectifying the violations.

6. The writ petition is disposed of accordingly. No costs.
Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nv

To

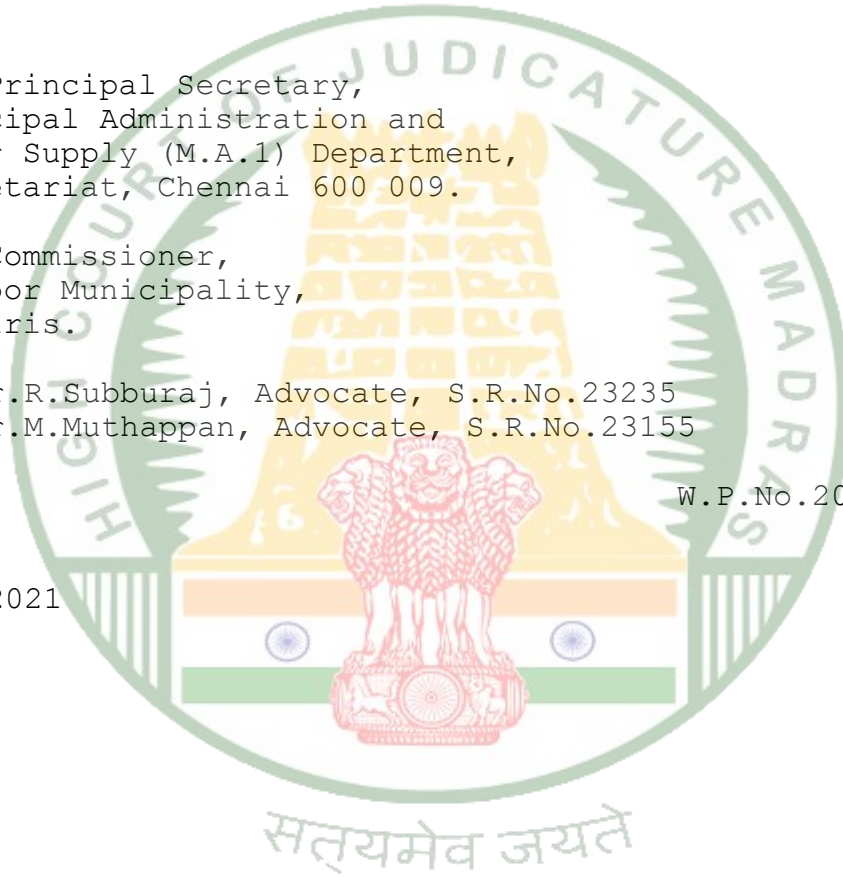
1. The Principal Secretary,
Municipal Administration and
Water Supply (M.A.1) Department,
Secretariat, Chennai 600 009.
2. The Commissioner,
Coonoor Municipality,
Nilgiris.

+1cc to Mr.R.Subburaj, Advocate, S.R.No.23235

+1cc to Mr.M.Muthappan, Advocate, S.R.No.23155

W.P.No.20041 of 2018

SSN(CO)
CS/28/06/2021



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