

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.4725 of 2015

P.Gandhi

...Petitioner

Vs

1.Government of Tamil Nadu
Represented by its Secretary
Municipal Administration and Water Supply
(MA1) Department
Secretariat, Chennai - 600 009.

2.Commissioner
Udhagamandalam Municipality at
Udhagamandalam
The Nilgris.

...Respondents

Prayer: 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.364/M.A.1/2015, dated 10.06.2015 passed 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.31/98/S, dated 10.08.2009, the 2nd respondent herein.

For Petitioner : Mr.N.Damodaran
For Respondents : Mr.S.Jaganathan, GA (CS) for R1
Mr.S.Kadarkarai for R2

ORDER

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

2. The petitioner in the present 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, final order 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 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.Heard Mr.N.Damodaran, learned counsel appearing for the petitioner 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 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 finding of both authorities, and I find no merit in these Civil Revision Petitions.

5.Mr.N.Damodaran, learned counsel appearing for petitioner would submit that, the petitioner is a poor people, and he has 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, the petitioner is permitted to file fresh application irrespective of the fact that, whether he has already filed application seeking for exemption under Sec.217-Q of the Act, and on filing such application, the 1st respondent Government is directed to consider the application, and pass suitable order 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 copy of this order. Thereafter, the

1st respondent Government is directed to consider the application, and pass suitable orders within a period of twelve weeks after giving the 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.

7. With the above direction, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

06.01.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To

1. The Secretary
Government of Tamil Nadu
Municipal Administration and Water Supply
(MA1) Department
Secretariat, Chennai - 600 009.

2. Commissioner
Udhagamandalam Municipality at
Udhagamandalam
The Nilgris.

G.K.ILANTHIRAIYAN,J,



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