

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 11.11.2020

Delivered on: 06.01.2021

CORAM:

**THE HON'BLE MR.JUSTICE P.RAJAMANICKAM**

**C.R.P(NPD).No.4793 of 2015**

**and**

**M.P.No.1 of 2015**

1.C.C.Shanthilal

2.C.Gouthamchand

... Petitioners

Vs.

1.Government of Tamilnadu,  
represented by its Secretary,  
Municipal Administration and Water  
Supply (MA1) Department,  
Secretariat, Chennai – 600 009.

2.The Commissioner,  
Udhagamandalam Municipality at  
Udhagamandalam,  
The Nilgris.

... 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, the impugned proceedings G.O.(Pa) No.186/M.A.1/2015, dated 16.03.2015 served in person on 01.06.2015 and passed by the Principal Secretary to Government, Municipal Administration and Water Supply (M.A.1) Department, Secretariat, Chennai – 600 009, the first respondent herein

in confirming the order passed by the Commissioner, Udthagamandalam Municipality in UAC No.18/1995/North, dated 06.03.2010, the second respondent herein is most illegal, arbitrary, passed in a mechanical manner and hence the same is liable to be set aside.

For Petitioners : M/s.Sudarsan for  
M/s.N.Damodaran

For Respondents : M/s.A.Dev Narendran,  
Government Advocate (C.S.) for R1  
M/s.S.Kadarkarai for R2

**ORDER**

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

2. The petitioners in this Civil Revision Petition are the owners of a building. Earlier, the 2<sup>nd</sup> 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 petitioners herein had put up construction unauthorisedly and also alleging that there are deviations in the approved plan. After considering the objections submitted by the petitioners, 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 petitioners had filed a review petition before the 1<sup>st</sup> 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 petitioners, dismissed the review petition, thereby confirmed the order passed by the 2<sup>nd</sup> respondent. Now, challenging the same, present Civil Revision Petition has been filed.

3. I have heard M/s.Sudarsan for M/s.N.Damodaran, learned counsel appearing for the petitioners as well as learned Government Advocate appearing for 1<sup>st</sup> respondent and learned counsel appearing for the 2<sup>nd</sup> respondent.

4. On perusal of the order passed by the 2<sup>nd</sup> 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 1<sup>st</sup> respondent, Revisional authority, also after considering entire materials available on record, and after conducting proper enquiry, had confirmed the order passed by the 2<sup>nd</sup> respondent. I have also considered the materials, and also submissions made by the learned counsel appearing for the petitioners, as well as learned Government Advocate appearing for 1<sup>st</sup> respondent and learned counsel appearing for 2<sup>nd</sup> 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. M/s.Sudarsan for M/s.N.Damodaran, learned counsel appearing for petitioners would submit that, the petitioners are poor, and they had constructed a 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 1<sup>st</sup> 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.

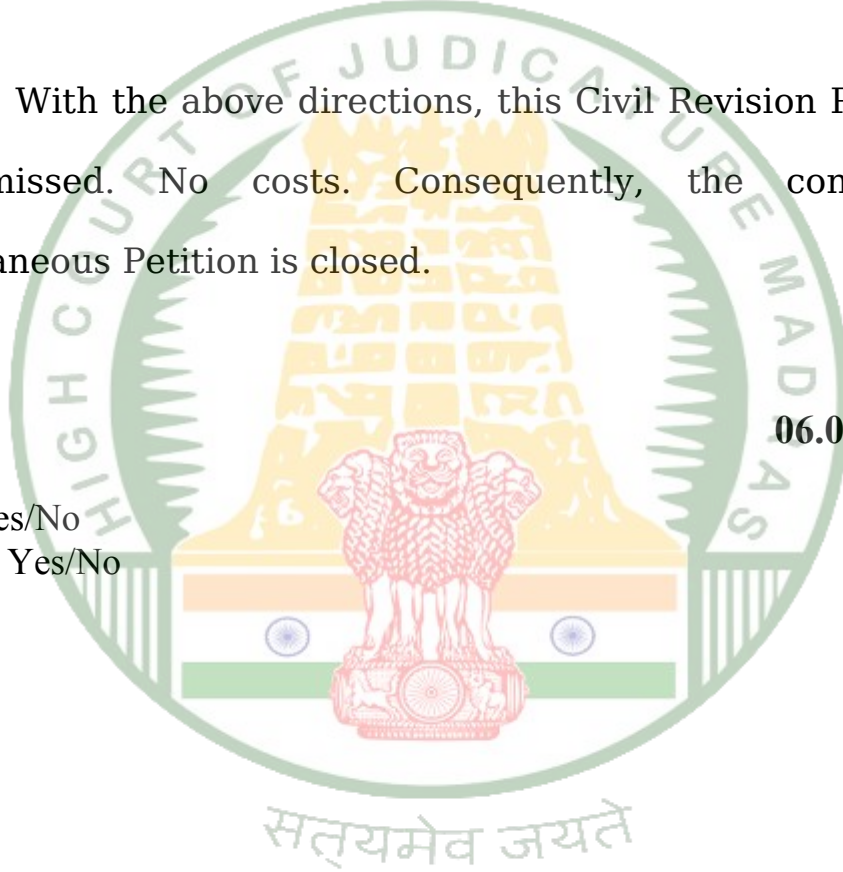
7. Considering the above circumstances, the petitioners herein are permitted to submit a fresh application irrespective of the fact that whether has already filed application seeking for exemption under Sec.217-Q of the Act, and on submitting such application, the 1<sup>st</sup> respondent Government is directed to consider the said application, and pass appropriate orders on merits in accordance with law. The petitioners are directed to submit their application within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the 1<sup>st</sup> 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 petitioners. Till the orders being passed by the 1<sup>st</sup> respondent, the 2<sup>nd</sup> 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.

**06.01.2021**

Index :Yes/No  
Internet : Yes/No  
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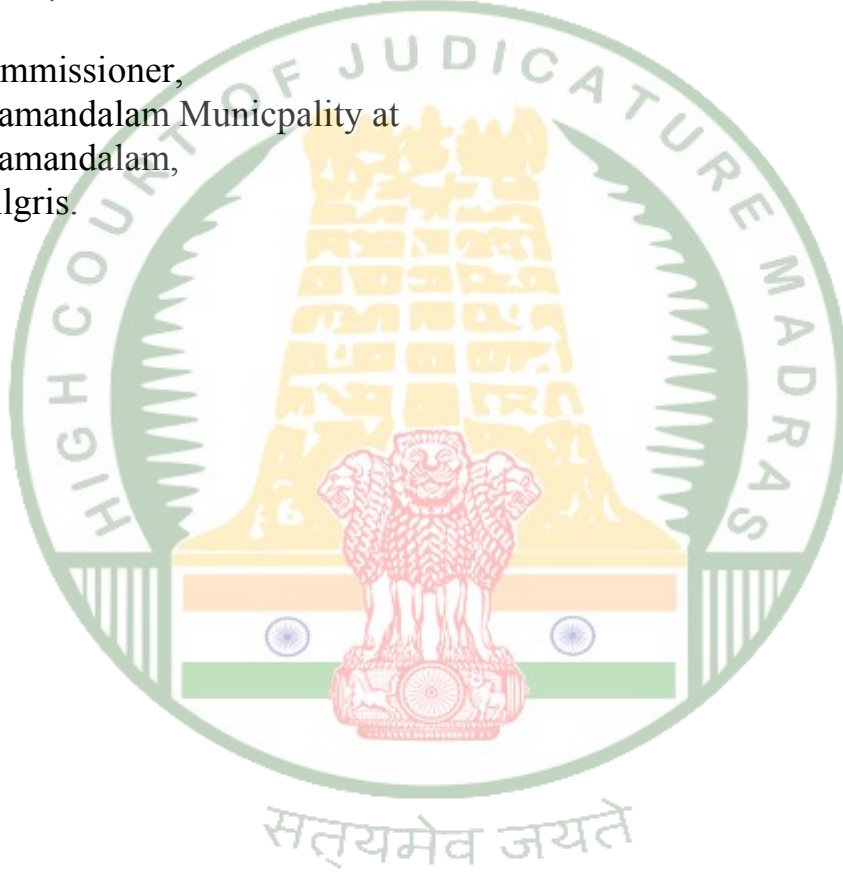


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**To**

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

2.The Commissioner,  
Udhagamandalam Municipality at  
Udhagamandalam,  
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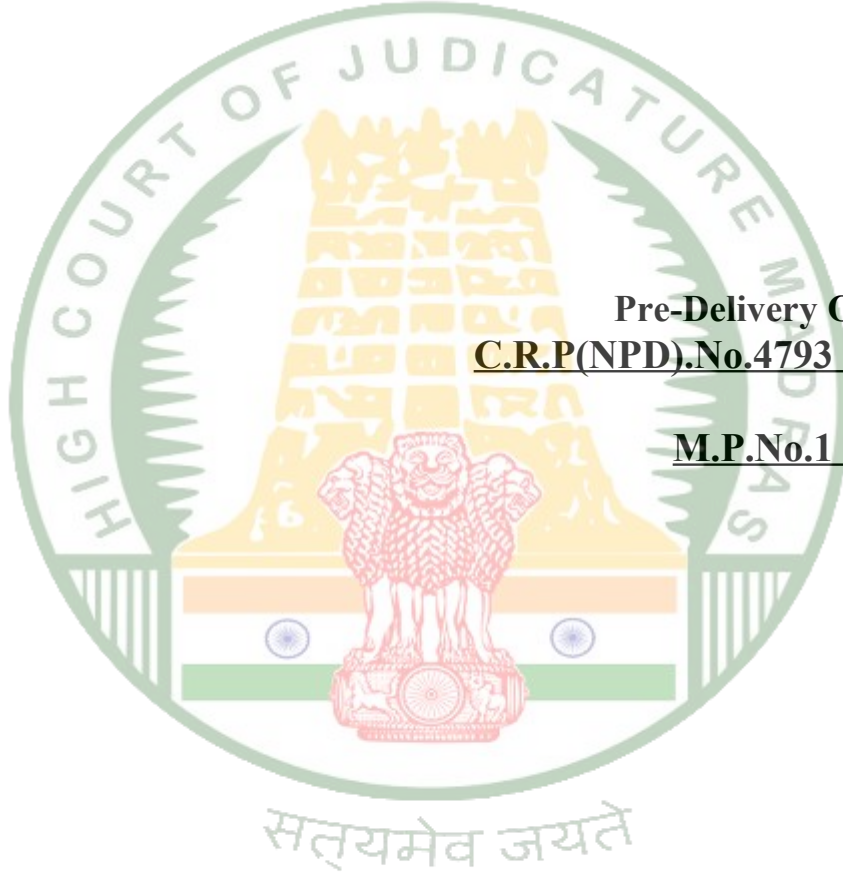


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CRP (NPD).No.4793 of 2015

**P.RAJAMANICKAM.J.,**

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**Pre-Delivery Order in  
C.R.P(NPD).No.4793 of 2015  
and  
M.P.No.1 of 2015**

**WEB COPY 06.01.2021**