



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P NO.7401 OF 2021

AND W.M.P. NO.7915 OF 2021

Mr.Robinson Selvan

... Petitioner

Vs.

The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent made in Na.Ka.No.9102/2016/M.H2 dated 18.10.2019 and quash the same and consequently direct the respondent to extend the building license of the petitioner interms of Section 280 of the Coimbatore City Municipal Corporation Act on the basis of the petitioner's application dated 15.11.2019.

For Petitioner : Mr.G.Jeremiah
for A.P.Sathyamoorthy

For Respondent : Mr.K.Magesh
Standing Counsel

ORDER

The subject matter of challenge in the present writ petition is the proceedings of the respondent dated 18.10.2019, wherein, the building license given to the petitioner was canceled.

2.The case of the petitioner is that he purchased three plots bearing 62A, 63 and 64 in the year 2005. According to the petitioner, after the resurvey, TS No.81 and 83 pertained to these three plots. The further case of the petitioner is that after the purchase of the property, the revenue records were also mutated in the name of the petitioner and the property tax and water tax was also assessed in name of the petitioner.



3.The petitioner made an application before the respondent on 21.09.2016 seeking for planning permission to construct a building in TS.No.81 and 83. The application was considered by the respondent and the building license was granted through proceedings dated 25.11.2016 and the petitioner had to put up the super structure in accordance with the plan within a period of three years and this license was valid up to 23.11.2019.

4.The petitioner was not able to complete the construction within the license period and hence he submitted an application dated 15.11.2019 seeking for extension of the building license. At this point of time, the petitioner received the impugned proceedings of the respondent dated 18.10.2019 canceling the license given to the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

5.Heard Mr.G.Jeremiah, learned counsel appearing on behalf of the petitioner and Mr.K.Magesh, learned Standing Counsel appearing on behalf of the respondent.

6.The main grievance that has been raised by the learned counsel for the petitioner is that the impugned order came to be passed by the respondent without putting the petitioner on notice and affording him an opportunity. The learned counsel submitted that the respondent has proceeded further to cancel the license mainly on the ground that Plot No.62A was a place which was allotted for a Park and this portion was also included while applying for the license before the respondent. The learned counsel submitted that the application was made seeking for the license insofar as the land in TS No.81 and 83 are concerned and the petitioner never made a mention about Plot No.62A and therefore, if an opportunity had been given to the petitioner, the petitioner would have explained his stand.

7.Per contra, the learned counsel for the respondent submitted that Plot No.62A was an illegal plot which actually is a place earmarked for a Park and this plot number also forms part of TS No.81 and 83. The learned counsel submitted that when the respondent granted the permission in the year 2016, since Plot No.62A was not projected in the application and only TS numbers were given, the approval was granted. Subsequently, on scrutiny the respondent came to know that the license was granted even for Plot No.62A and hence the cancellation order came to be passed by the respondent.

8.In the considered view of this Court, the petitioner has taken a stand to the effect that the Park is comprised in TS Nos.68 and 80 and the road is located in TS No.67 and therefore, there is absolutely no reason for canceling the license which



pertained to TS Nos.81 and 83. If the respondent had put the petitioner on notice, the petitioner could have explained his stand and the same could have been taken into consideration by the respondent before taking a decision. In any case, the petitioner was given a right to put up a construction by virtue of the building license granted in his favour for a period of three years through proceedings dated 25.11.2016. When this right is sought to be taken away, the minimum that is expected on the side of the respondent is to put the petitioner on notice and afford an opportunity and thereafter, pass orders in accordance with law. This procedure has not been adopted by the respondent and therefore, the impugned proceedings of the respondent dated 18.10.2019 is vitiated due to violation of the principles of natural justice.

9.In view of the above discussion, the impugned proceedings of the respondent dated 18.10.2019, is hereby quashed. There shall be a direction to the respondent to issue a notice to the petitioner and call for his explanation. The petitioner shall submit his explanation and he shall also be given an opportunity of personal hearing. The respondent shall thereafter, take a decision and pass orders strictly in accordance with law. This process shall be completed by the respondent, within a period of six weeks from the date of receipt of copy of this order.

10.In the result, this writ petition stands allowed with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

ssr
To

The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

+1cc to Mr.K.Magesh, Advocate, SR.No.40910
+1cc to A.P.Sathyamoorthy, Advocate, SR.No.40809

W.P No.7401 of 2021
and W.M.P. No.7915 of 2021

GJ(CO)
PM (09/09/2021)