

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 30.03.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.8169/2021 & WMP.No.8719/2021

V.Usha

.. Petitioner

Versus

- 1.The Principal Secretary to Government
of Tamil Nadu, Municipal Administration
and Water Supply [MA1] Department
Secretariat, Chennai.
- 2.The District Collector
Collectorate, Udhagamandalam
The Nilgiris.
- 3.The Commissioner
Udhagamandalam Municipality
Udhagamandalam,
The Nilgiris.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the third respondent relating to the order bearing No.Aa.Ka.No.4/2005/N dated 12.03.2021, quash the same and consequently direct the 1st respondent to consider and pass orders in the petitioner's representation dated 25.09.2020.

For Petitioner : Mr.S.Valarmathi
For RR1&2 : Mr.S.Kamalesh Kannan
Government Advocate
For R3 : Mr.P.Srinivas
Standing Counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2)Mr.S.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of respondents 1 and 2 and Mr.P.Srinivas, learned Standing counsel accepts notice on behalf of the 3rd respondent.

- (3) The petitioner, on an earlier occasion, challenged the Show Cause Notice issued under sections 217-B[1] and 217-J[1] of the Tamil Nadu District Municipalities Act, in respect of the alleged unauthorised construction put up by her situate in RS.No.1819/1A1 Part, bearing Door No.120, Hospital Road, Uthagamandalam, Nilgiris District and submitted her objections and the same came to be rejected by the 3rd respondent and the petitioner filed a revision u/s.217-A of the said Act before the 1st respondent who has also rejected the same and challenging the same, she filed CRP [NPD] No.2669/2015, so also three other persons, viz., A.Syed Ali, Selvarani and Kamala. A Single Bench of this Court, vide common order dated 20.02.2020 in CRP [NPD] Nos.2634, 2635, 2669, 2956 & 2957/2015, found that the revision petitions lack merit and however, taking into consideration, the plea made by the Revision Petitioners, granted liberty to them to submit their applications seeking for exemption and relaxation and the copy of the said order was made ready on 12.08.2020 and thereafter, the petitioner has submitted her representation dated 25.09.2020 to the 1st respondent in lieu of the liberty granted in the above cited common order.
- (4) The learned counsel for the petitioner would submit that without waiting for the 1st respondent to pass orders, the 3rd respondent, has issued the impugned notice dated 12.03.2021, threatening to put up lock and seal on the premises and hence, prays for interference.
- (5) Per contra, Mr.S.Kamalesh Kannan, learned Government Advocate appearing for respondents 1 and 2 has drawn the attention of this Court to paragraph No.4 of the common order dated 20.02.2020 made in CRP [NPD] Nos.2634, 2635, 2669, 2956 & 2957/2015 and would submit that the learned Single Judge, having found that the order passed by the Government in the Revision, requires no interference, had granted liberty to the petitioner to submit a mercy petition and admittedly, the superstructure in question, had been put up without any planning permission and that too, on a hilly terrain of Udhagamandalam and further submitted that the present writ petition lacks merits and prays for dismissal of the same.
- (6) Mr.P.Srinivas, learned Standing counsel appearing for the 3rd respondent would submit that apart from the normal requirement, since the building is located in a hilly terrain, there are other statutory formalities which have to be complied with and in the light of the fact that the proceedings of the 3rd respondent - Municipality u/s.217-B[1] and 217-J[1] of the Tamil Nadu District Municipalities Act, came to be confirmed by the Government, which was also the subject matter of challenge in CRP [NPD] Nos.2634, 2635, 2669, 2956 & 2957/2015, and since

the learned Single Judge has recorded the finding that the Civil Revision Petitions lack merit, prays for dismissal of this writ petition.

(7) This Court has considered the rival submissions and also perused the materials placed before it.

(8) A perusal of the common order dated 20.02.2020 would prima facie disclose that the learned Single Judge was not inclined to interfere with the concurrent findings rendered by the 3rd respondent as confirmed by the 1st respondent and however, taking note of the plea made by the petitioner and others, granted liberty to them to submit individual representations seeking relaxation and exemption. The copy of the said order was made ready on 12.08.2020 and within the stipulated time, the petitioner has also submitted a representation on 25.09.2020 and the same was received and acknowledged on 29.09.2020.

(9) This Court, taking into consideration, the above facts and circumstances, directs the 1st respondent to consider and dispose of the petitioner's representation dated 25.09.2020 in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of the order / uploading of the order in the website and communicate the decision taken, to the petitioner as well as to respondents 2 and 3 and till such time, the 3rd respondent shall defer further decision in terms of the impugned notice dated 12.03.2021. It is further made clear that the petitioner, till the disposal of the representation by the 1st respondent - the Government, shall not create any third party rights in respect of the land and superstructure in question.

(10) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-
Assistant Registrar

//True Copy//

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Sub Assistant Registrar

To

1. The Principal Secretary to Government
of Tamil Nadu, Municipal Administration
and Water Supply [MA1] Department
Secretariat, Chennai.

2.The District Collector
Collectorate, Udhagamandalam
The Nilgiris.

3.The Commissioner
Udhagamandalam Municipality
Udhagamandalam,
The Nilgiris.

+1 cc to M/s.S.Valarmathi, Advocate, SR.NO.20982

WP.No.8169/2021 & WMP.No.8719/2021

SKY(CO)
NS(10/05/2021)



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