



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R. MAHADEVAN
AND

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.27506 of 2021
and

WMP.No.29032 of 2021

M.Shanmugasundaram

..Petitioner

Vs

1.The Commissioner
Erode Corporation
Erode.

2.The Assistant Director
District Town and Country Planning Department
Chennimalai
Erode District

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to approve the building site under the deeming provision of Section 277 of Coimbatore City Municipal Corporation Act, 1981, based on the application dated 23.09.2021 made by the petitioner and direct the respondents till such time not to demolish the building situated at in Re.S.No.432/8, Suriyampalayam, Erode.

For Petitioner : Mr.S.Doraisamy
For Respondents : Mr.Raja Mathivanan, for R1
Mr.M.Alagu Goutham,
Govt. Advocate for R2

ORDER

[Order of the Court was made by R. MAHADEVAN, J.]

The petitioner has come forward with this writ petition seeking a direction to the respondents to approve the building site under the deeming provision of Section 277 of Coimbatore City Municipal Corporation Act, 1981, based on his application dated 23.09.2021 and till such time, not to demolish the building situated in Re.S.No.432/8, Suriyampalayam, Erode.



2.It is the case of the petitioner that he obtained the subject property through partition deed registered as Doc.No.2547/2017 on the file of SRO, Erode and he put up a wall to the height of 10 feet and temporary shed, which is used as a godown. Since the property was not assessed to tax, he could not make an application seeking permission for construction of the building. While so, the first respondent issued a notice dated 08.09.2021 under section 296(3) of the Erode Municipal Corporation Act, 2008, to demolish the building and bring it to the level. Challenging the same, the petitioner preferred WP.No.22893 of 2021. Besides that, he preferred an application on 23.09.2021 in the proper format under Rule 3(1) of the Revised Building Rules, 1942 enclosing the building plan and other required documents to the second respondent. During the pendency of the same, the first respondent issued another notice dated 24.11.2021 calling upon the petitioner to demolish the building within 24 hours, failing which, action will be initiated under sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971. Feeling aggrieved, the petitioner is before this court with this writ petition for the aforesaid relief.

3.According to the learned counsel for the petitioner, the petitioner has already made an application on 23.09.2021 seeking approval, which has to be considered by the respondent authorities within a time frame stipulated in the Coimbatore City Municipal Corporation Act, 1981. However, the said application is pending, without passing any orders. Therefore, the learned counsel, while confining the relief sought in this writ petition, submitted that it would suffice, if a direction is given to the second respondent to dispose of the said application as expeditiously as possible.

4.The learned Government Advocate taking notice for the second respondent has no serious objection for granting such relief to the petitioner.

5.In view of the above submissions made by the learned counsel on either side, without expressing any opinion on the merits of the claim made by the petitioner, this court directs the second respondent to consider the petitioner's application dated 23.09.2021 filed under Rule 3(1) of the Revised Building Rules, 1942 and pass appropriate orders, on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.



6.The Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Commissioner
Erode Corporation
Erode.

2.The Assistant Director
District Town and Country Planning Department
Chennimalai
Erode District

+1cc to Mr.M.Rajamathivanan, Advocate, S.R.No.69480

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.69498

+1cc to the Government Pleader, S.R.No.69897

W.P.No.27506 of 2021

JP(CO)
KM(20/01/2022)