



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

W.P. (MD) .No.12885 of 2021

WEB COPY

Karupusamy

...Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai.

2.The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to pass orders on the exemption application, dated 30.12.2020, under Rule 72 of the Tamil Nadu Combined Development and Building Rules, 2019, preferred in respect of the petitioners property in R.S.No.9/2B4B, Vilangudi Village, Madurai North Taluk, Madurai, within the time that may be stipulated by this Court.

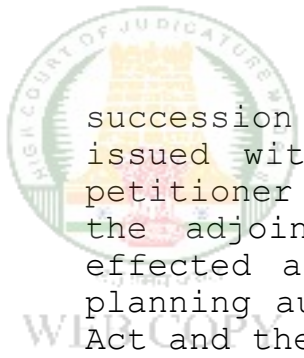
For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.M.Lingadurai
Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, to direct the 1st respondent to pass orders on the exemption application, dated 30.12.2020, under Rule 72 of the Tamil Nadu Combined Development and Building Rules, 2019, preferred in respect of the petitioners property in R.S.No.9/2B4B, Vilangudi Village, Madurai North Taluk, Madurai.

2.The case of the petitioner is that he himself, one Muthuramalingam and Pandiare are the joint owners of a land, to an extent of 0.48 hectares (1.19 acres), which forming part of Vilangudi Bit I Village, Madurai North Taluk, Madurai. According to the petitioner, he is entitled to the said property by way of



succession in the year 1993 after his father's demise and he was issued with patta in Patta No.3062 in the year 2018. Now the petitioner intends to develop the property by developing a layout as the adjoining lands were developed and constructions have been effected after obtaining appropriate planning permission from the planning authorities under the Tamil Nadu Town and Country Planning Act and the local body.

3.The learned counsel for the petitioner submitted that as per the Tamil Nadu Combined Developing and Building Rules 2019 under Rule 47, the layout is required to have a minimum public street or road of a width of 7.2 meters (23.622 feet). But prior to the said Rules, the required width of the road/passage was 20 feet only (6.096 meters). As per the said requirements, the development of all adjacent lands has been undertaken and constructions have been made only leaving 20 feet access road, which had been approved by the competent authorities. The learned counsel further submitted that it is to be noted that the rule making authority having regard to the practical difficulties/anomalies that are likely to emerge in view of such bona fide claims, such as in the present case, where a 20 feet road and constructions have already been effected after obtaining due approvals as the requirement was only 20 feet prior to the rules of 2019, provided for a window of exemption.

4.The learned counsel for the petitioner would further submit that Rule 72 of the Tamil Nadu Combined Development and Building Rules 2019, contemplate that the Government is empowered by a notification to be issued in the Tamil Nadu Government Gazette on an application of any person to exempt such development from the operation of the rules or any particular rule. In this regard, the petitioner has filed an application, dated 30.12.2020 along with requisite documents to the respondents. Since the same has not been acted upon, the present writ petition has been filed before this Court, seeking for appropriate directions.

5.Heard Mr.M.Mahaboob Athiff, learned counsel for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents.

6.The learned Government Advocate appearing for the respondents would submit that the representation given by the petitioner will be considered by the first respondent on its own merits within a time stipulated by this Court.

7.Considering the facts and circumstances of the case and the limited relief sought for in this writ petition, there shall be a direction to the first respondent to consider the application made by the petitioner on 30.12.2020 on its own merits and in accordance with law and pass final orders, within a period of eight weeks from the date of receipt of a copy of this order.



8.This writ petition is disposed of with the above directions.
No costs.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM/MPK

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary, Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai.

2.The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

+1 CC to M/s.GP (SR-24929[F] dated 02/08/2021)

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RD(18.08.2021) 3P 4C