

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.A.NO.1416 OF 2022

AND

C.M.P.NO.9076 OF 2022

The Commissioner,  
Dharapuram Municipality,  
No.207-A, Park Road,  
Dharapuram 688 656  
Tiruppur District

... Appellant

vs

N.Santhakumar

... Respondent

Prayer: Appeal filed against the order dated 11.11.2021 in W.P.No.23752 of 2021.

Prayer in W.P.No.23752 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the order in Na.Ka No. 5025 / 2021 / F1 dated 27.09.2021 issued by the Respondent and quash the same and consequently direct the Respondent to renew the building permission granted in proceedings Ref No. 157 / 2000/ G1 dated 29.09.2000 for constructing the building for commercial use in T.S.No.20/12, Block No.8, Ward No.7, Bye pass Road, Dharapuram, Erode distirct.

For the Appellant : Mr.P.Srinivas

For the Respondent : Mr.V.B.R.Menon

JUDGMENT

(Judgment of the Court was delivered by  
the Hon'ble Chief Justice)

The writ appeal has been filed questioning the judgment of learned Single Bench dated 11.11.2021 in WP No.23572 of 2021.

2. The matter pertains to approval of the building plan. The building plan was approved earlier in the year 2000, having a period of operation of three years. The said period expired in the year 2003. No construction was undertaken by the petitioner/non-appellant during the said period of three years. Thereafter, he made an application for renewal of the building plan. In the intervening period, there was a change of rules. The municipality concerned had not entertained the renewal application, rather, the petitioner/non-appellant was asked to make a fresh application in accordance with the existing rules. The learned Single Judge interfered in the decision of the municipality and directed them to consider the renewal application to be a fresh application made by the petitioner/non-appellant and proceed accordingly.

3. To avoid delay in getting permission for building, the learned counsel for the non-appellant prayed that liberty may be given to him to make a fresh application for approval of the building plan instead of pressing on the renewal application to treat it to be fresh application. If fresh application is preferred, the municipality may be directed to consider it within a reasonable time. The proposal of the learned counsel for the non-appellant is not opposed by the counsel for the municipality. As otherwise, it was his case that there cannot be a renewal application but a fresh application in consonance with the rules applicable now.

4. Accordingly, this appeal is disposed of after causing interference to the order of the learned Single Judge with liberty to the petitioner/non-appellant to make a fresh application for approval of the building plan. The said application would be maintained as per the rules now existing. In case any application is made, the municipality is directed to consider it expeditiously and in any case not beyond a period of four months from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, CMP.No.9076/2022 is closed.

Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

tar

To

The Commissioner,  
Dharapuram Municipality,  
No.207-A, Park Road,  
Dharapuram 688 656.

+2ccs to Mr.V.B.R.Menon, Advocate, S.R.No.40496

+1cc to the Government Pleader, S.R.No.40958

W.A.No.1416 of 2022

GPL(CO)  
RLP(14/07/2022)