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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.8856 of 2022 and WMP.No.8683 of 2022

L.Mathew Johnson

...Petitioner

-vs-

1.Coonoor Local Planning Authority
rep. by its Member Secretary,
Coonoor, The Nilgiris District.

2.The Commissioner,
Coonoor Municipality,
Coonoor, The Nilgiris District.

3.The Secretary to Government of Tamil Nadu,
Department of Housing and Urban Development,
Secretariat, Chennai-600 009.

...Respondents

(R3 impleaded suo motu in this order by this Court)

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the 2nd respondent made in Letter No.4/2021/F1 dated 27.12.2021 and quash the same and consequently, direct the respondents herein to de-seal the petitioner premises bearing Door No.11/C-1 Balaclava, Coonoor, The Nilgiris District.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.K.V.Sajeev Kumar,
1 and 3 Spl.G.P.

For 2nd respondent : Mr.P.Srinivas



ORDER

(Order of the Court was made by T.RAJA, J.)

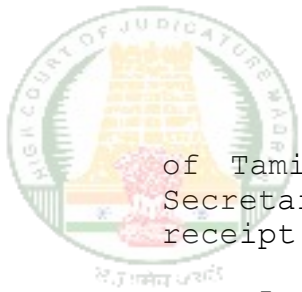
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Challenging the proceedings of the 2nd respondent made in Letter No.4/2021/F1 dated 27.12.2021 and for quashing the same with a consequential direction, directing the respondents herein to de-seal the petitioner premises bearing Door No.11/C-1 Balaclava, Coonoor, The Nilgiris District, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner would submit that the petitioner has purchased a land measuring to an extent of 01 cents comprised in R.S.Nos.2265/2 and 2266/2, Town Survey No.52/1 Part, Block 13, Ward-C of Coonoor from Mr.V.Raj, S/o.V.Velu under a registered Sale Deed dated 29.01.2021 bearing Document No.173 of 2021 on the file of the Office of the Sub-Registrar, Coonoor. The petitioner's vendor also has made an application to the 2nd respondent along with building sketches seeking planning permission. The 2nd respondent also vide its Resolution No.14 dated 23.11.2016 granted planning permission and building approval to him for construction of a building in his property. Though his vendor obtained all the approval for construction of the house, he could not commence the construction work due to various reasons. However, he renewed his application to put up construction. The 2nd respondent vide his proceedings dated 13.02.2017 and 30.04.2019 extended the time limit for construction of the building. Thereafter, the petitioner, spending huge amount on the construction completed the same in a short span and he has also paid necessary charges to the 1st respondent Municipality on 15.03.2021. But the petitioner was issued with the impugned notice dated 27.12.2021 by the 1st respondent stating that as per the approved plan, he has not put up the construction.

3. Learned Counsel for the petitioner would further submit that the petitioner on receipt of the notice, appeared before the 2nd respondent and explained the situation mentioning that all the buildings in the same street are constructed in this manner and therefore, he has not violated any major provisions of the Act. But without considering his explanation, the 2nd respondent along with his officials came to the premises-in-question and locked and sealed the same on 15.03.2022. Hence, the present Writ Petition came to be filed.

4. In reply, Mr.K.V.Sajeev Kumar, learned Special Government Pleader taking notice for the respondents 1 and 3 would submit that the notice dated 27.12.2021 issued by the 1st respondent shows that the petitioner ought to have filed an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, if aggrieved, before the Secretary to Government



of Tamil Nadu, Department of Housing and Urban Development, Secretariat, Chennai-600 009, within 30 days from the date of receipt of the notice, which he has not done.

5. However, considering the facts and circumstances of the matter, more particularly, the fact that covid-19 pandemic situation has created a stagnant everywhere and this Court as well as the Hon'ble Apex Court has also passed an order excluding the Covid-19 period i.e. from 15.03.2020 till 14.03.2021 and subsequently till 28.02.2022. The relevant portion of the order passed by the Apex Court in Miscellaneous Application No.21/2022 in Miscellaneous Application No.665 of 2021 in Suot Motu Writ Petition (C) No.3 of 2020 dated 10.01.2022 is given as under:

'Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021. if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 28.02.2022. notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act. 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.'

In view of the above, we are of the view that the petitioner is also entitled for exclusion of the said period.



6. Therefore, we direct the petitioner to file an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act before the 3rd respondent herein, namely, the Secretary to Government of Tamil Nadu, Department of Housing and Urban Development, Secretariat, Chennai-600 009, within a period of two weeks from the date of receipt of a copy of this Order and if any such appeal is filed, the 3rd respondent herein shall consider and dispose of the same on merits and in accordance with law after giving an opportunity of hearing to the petitioner, within a period of four weeks thereafter. In the meanwhile, the 1st respondent is directed to de-seal the premises-in-question forthwith and not to take any coercive steps till the appeal is decided by the Appellate Authority.

7. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Note:

Office to make necessary amendment
in the Cause Title

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To

- 1.The Member Secretary,
Coonoor Local Planning Authority,
Coonoor, The Nilgiris District.
- 2.The Commissioner,
Coonoor Municipality,
Coonoor, The Nilgiris District.
- 3.The Secretary to Government of Tamil Nadu,
Department of Housing and Urban Development,
Secretariat, Chennai-600 009.

+1cc to Mr.S.Thirumavalavan, Advocate SR. No. 25126
+1cc to Government Pleader SR. No. 25114

W.P.No.8856 of 2022

SVI (CO)
PR (04/05/2022)