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CRP(NPD).No.204 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

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THE HONOURABLE Mr.JUSTICE S.SOUNTHAR

CRP(NPD).No.204 of 2016
and
C.M.P.No.1064 of 2016

1. R.Sankaran (Died)

2. Mohan Kumara Raja

... Petitioners

(The 2nd petitioner brought on record as legal heir of the deceased sole petitioner vide Court order dated 06.01.2022 made in C.M.P.No.10724/2021 in CRP(NPD).No.204 of 2016)

Vs.

1. The Secretary to Government
State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St., George, Chennai – 600 009.

2. The Commissioner,
Gudalur Municipality,
Gudalur, Nilgiris.

... Respondents



CRP(NPD).No.204 of 2016

Prayer : Civil Revision Petition is filed under Section 217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 r/w Section 115 of Civil Procedure Code, pleased to set aside the order of the 1st respondent passed in Government Letter (பு) No.454/Na.Nee.1/2015 dated 14.07.2015 confirming the order of the 2nd respondent in UAC No.18/2014/TPI dated 24.03.2015 and served pm 10.08.2015 through the 2nd respondent.

For Petitioners : Mr.M.Muthappan
For R1 : Ms.E.Indhumathi
Government Advocate
For R2 : Mr.P.Srinivas

ORDER

The Revision Petition is filed against the order passed by the 1st respondent, dismissing the review application filed under Section 217-K of the Tamil Nadu District Municipalities Act.



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2. According to the revision petitioner, he is the owner of the building constructed in Survey No.339/4 A1A in Gudalur Municipality, Nilgiris District. The notice was issued by the 2nd respondent on 24.03.2015 seeking demolition of the building for alleged violation of the building rules and he had filed a review application before the 1st respondent and the same was dismissed by an impugned order.

3. Learned counsel for the petitioners submitted that the order passed by the 1st respondent is the result of arbitrary exercise of power and the same was passed without giving proper opportunity to the revision petitioner. He further submitted that the revision petitioner purchased the land with building and he only altered the existing building he purchased and he did not put up any new building. He further submitted that the pillars erected by the revision petitioner in the lower area were considered as a ground floor and hence the notice issued by the 2nd respondent for demolition of building for violation of building rules is not maintainable in law.



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4. Reading of the impugned order passed by the 1st respondent make it clear that the entire building belongs to the petitioner is an unauthorized one. The building was put up without getting planning permission from the competent authority and the petitioner failed to produce any approved plan for putting up basement plus ground floor plus three floors building. It was also recorded that the building was put up without getting sanction from the competent authority and in total violation of hill areas building rules. The impugned order further shows that at the time of personal enquiry, the petitioner had not produced any document to show that he had obtained approval from the competent authority. Consequently, the review petition filed by the petitioner was dismissed by the 1st respondent.

5. On reading the impugned order, I am of the view that the 1st respondent/review authority correctly dismissed the review petition after finding that the petitioner had put up the building without getting planning permission from the competent authority and hence the entire building is unauthorized one. It is not a case of a minor or major deviation from the



approved plan. It is a case of putting up a massive building even without getting any plan approval from the appropriate authority. Hence there is no equity in favour of the revision petitioner and I do not find any illegality or infirmity in the impugned order and the same requires no interference.

6. At the time of dismissing the revision, the learned counsel for the petitioner submitted that under Section 217-q of the Tamil Nadu District Municipalities Act, the Government has got power to grant exemption to any building or class of buildings from the operation of the hill station building rules and the revision petitioner may be permitted to approach the Government seeking such exemption.

7. In view of the clear wordings in 217-q of the Tamil Nadu District Municipalities Act, it is always open to the petitioner to approach the Government seeking exemption from the building rules. Accordingly, liberty is granted to the revision petitioner to approach the Government seeking exemption as contemplated under Section 217-q of the Tamil Nadu District Municipalities Act, if so advised.



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8. Accordingly, the Civil Revision Petition stands dismissed.

Consequently, the connected civil miscellaneous petition is closed. No costs.

06.06.2022

Index :Yes/No
Internet:Yes/No
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To

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S. SOUNTHAR, J.

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