



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM:

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.12896 OF 2018

Sheik Ameer

...Petitioner

Vs

1. The Collector,
O/o. Collectorate,
Tiruppur District,
Tiruppur.
2. The Commissioner,
Tiruppur Municipal Corporation,
Kumaran Road,
State Highway 169,
Novyal, Tiruppur.

...Respondents

Prayer:

Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the 1st respondent to consider and pass order on the petitioner representation dated 25.04.2018.

For Petitioner : Ms.A.Sajidha Meera Rumana
for M/S.C.Neethi Mozhi

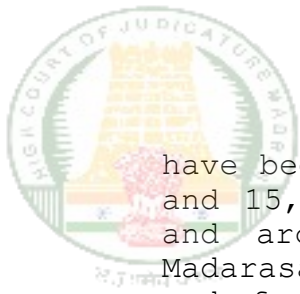
For R1 : Mrs.C.Meera Arumugam
Additional Government Pleader

For R2 : M/S.P.Shanthi

O R D E R

This Writ Petition has been filed, seeing for issuance of a Writ of Mandamus, to direct the 1st respondent to consider and pass order on the petitioner's representation dated 25.04.2018.

2. The case of the Writ Petitioner is that he has initially started the construction of Mosque viz., Masjid-e-Ihlass Sunnath Jamath Masjid and Madarasa. The above said Masjid and Madarasa



have been running from the year 2012 at Velampalayam, Ward No.14 and 15, Tiruppur Town, where 300 Muslim families are living in and around for the past several years and the Masjid and Madarasa are running for the purpose of offering prayers (Namaz) and for teaching Islamic Education to the Muslims, under the guidance of the Tamil Nadu Wakf Board.

2.1. According to the petitioner, the Masjid and Madarasa is registered with the Tamil Nadu Wakf Board. Subsequent, to the registration, a building was constructed for the use of a Mosque. Initially they were not aware of the rules about getting permission for the construction of Mosque. Subsequently, they made an application to 2nd respondent/the Commissioner for getting planning permission vide order dated 26.07.2016 for rectification on existing building to comply DCR rules. However, the 2nd respondent-The Commissioner without considering the facts, by non-application of mind, has simply rejected the petitioner's application on the same day.

2.2. Therefore, the issue in the present case is that the 2nd respondent-The Commissioner can consider the petitioner's representation and grant planning permission only after production of "No Objection Certificate" from the 1st respondent-The District Collector. Since, no action has been taken so far, the petitioner has approached this Court.

3. Though no counter affidavit has been filed on behalf of the respondents, Mrs.C.Meera Arumugam, learned Additional Government Pleader for 1st respondent would submit that this is the case of the disposal of the petitioner's representation and any direction is issued to the respondents, the same would be complied by the respondents.

4. A perusal of the entire materials available on record, it appears that the petitioner has initially started the construction of Mosque without getting planning permission. Therefore, the 2nd respondent-The Commissioner has issued notice dated 21.05.2014 to the petitioner, to stop the construction of front and back side of the Mosque. According to the petitioner, the aforesaid building was constructed for the purpose of conducting prayers (Namaz) and for imparting Islamic Education to the Muslims. Therefore, immediately after the receipt of the stop work notice issued by the 2nd respondent, the petitioner has applied for grant of planning permission on 26.07.2016 seeking rectification of the existing building by complying with DCR rules. However, the 2nd respondent has rejected the application stating that "No Objection Certificate" has to be obtained from the 1st respondent-The District Collector. Pursuant to the same, the petitioner has made a representation to the 1st respondent-The District Collector vide dated



25.04.2018 seeking to grant "No Objection Certificate".

4.1. Further, the learned counsel for the petitioner submits that the 1st respondent-The District Collector has given permission to conduct prayers (Namaz) in the Mosque. It is also the case of the petitioner that the petitioner's Mosque was recognized and the 1st respondent-The District Collector has passed an order dated 02.06.2016 for issuing free rice and for other benefits to the people. Therefore, the learned counsel for the petitioner contented that it is not that the petitioner is running the Masjid and Madarasa illegally, but everything within the knowledge of the 1st respondent. When such being the situation, this Court does not find any impediment for the 1st respondent/the District Collector to issue "No Objection Certificate" after all the petitioner is constructing the Mosque and Madarasa for conducting the prayers and for imparting Islamic Education to the Muslims. In fact, the Constitution of India has provided right of freedom of religion, whereby, every citizen of India has a right to practice and promote their religion peacefully. In the present case, the petitioner seeks permission to construct a mosque and madarasa for the purpose of conducting prayers and imparting Islamic Education to the Muslims in a peaceful manner, for which, the petitioner has to obtain No Objection Certificate from the 1st respondent/District Collector.

5. Therefore, this Court feels it appropriate to direct the 1st respondent to consider the petitioner's representation dated 25.04.2018 and pass appropriate orders in accordance with law regarding issuance of "No Objection Certificate" for the construction of Mosque and Madarasa, within a period of four weeks from the date of receipt of order of a copy. On production of such NOC, the 2nd respondent-The Commissioner is directed to consider the petitioner's representation for granting necessary planning permission for construction, in accordance with law.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Collector,
O/o. Collectorate,
Tiruppur District,
Tiruppur.
2. The Commissioner,
Tiruppur Municipal Corporation,
Kumaran Road,
State Highway 169,
Novyal, Tiruppur.

+1cc to M/S.C.Neethi Mozhi, Advocate, S.R.No.546
+1cc to the Government Pleader, S.R.No.714

W.P.No.12896 of 2018

RSV(CO)
PM/07/01/2022