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C.R.P(NPD)No.1767 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P(NPD).No.1767 of 2017

and

CMP.No.8317 of 2017

1.Omar Farook

2.Faiyaz Ahamed

..Petitioners

Vs.

1.Government of Tamil Nadu
represented by its Secretary,
Municipal Administration and Water
Supply (MA1) Department,
Secretariat, Chennai – 600 009.

2.The District Collector,
The Nilgris at Uthagamandalam.

3.The Commissioner,
Udhagamandalam Municipality at
Udhagamandalam, The Nilgris.

..Respondents

Prayer: Civil Revision Petition 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 read with Section 115 of C.P.C., against the impugned proceedings G.O.(Pa)No.152/M.A.1/2017, dated 12.04.2017, signed on



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24.04.2017 and served on 12.05.2017 in person and passed by the Principal Secretary to Government, Municipal Administration and Water Supply (M.A.1) Department, Secretariat, Chennai – 600 009, the first respondent herein in confirming the order passed by the District Collector, the Nilgris at Udhagamandalam in No.Lr.UAC No.50/1999/F1, dated 09.01.2001, the second respondent herein.

For Petitioners : Mr.N.Damodaran

For Respondents : Mr.S.Kadarkarai for R3

Dr.S.Suriya,

Addl. Govt. Pleader for R1 & R2

ORDER

The Civil Revision Petition has been filed against G.O.(Pa)No.152/M.A.1/2017 dated 12.04.2017 and served on 12.05.2017 on the revision petitioner and passed by the Principal Secretary to Government, Municipal Administration and Water Supply (M.A.1) Department / the first respondent herein, affirming the order passed by the District Collector, the Nilgris at Uthagamandalam in Lr.UAC No.50/1999/F1 dated 09.01.2001.



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2.In the aforementioned Government order, it had been stated that with respect to the building, though a planning permission had been sought by the revision petitioner, the following violations were made:-

Sl. No.	Details	Required as per MASTER PLAN	Required as per Hill Station Building Rule	As per Site	% Violation of
1.	Plot Extent	200 Sq.Mt.	95 Sq.Mt. Rule 4(1)	343.77 Sq.Mt.	No Violation
2.	No. of Floors	G+1	G+1	G+4	100% Violation
3.	Height of the Building	7 Mt.	7 Mt. Rule 11(3)	14.20 mt.	100% Violation
4.	Roof of top floor	Slope	Slope Rule 11(3)	Flat	100% Violation
5.	Front Set Back	3.00 Mt.	1.30 Mt. Rule 11(2)(a)	Nil	100% Violation
6.	Side Set Back-1	3.00 Mt.	--	Nil	100% Violation
7.	Side Set Back-2	3.00 Mt.	--	0.90+0.30/2 = 0.60 Mt.	80% Violation
8.	Rear Set Back	3.00 Mt.	--	0.90 Mt.	70% Violation
9.	Open Space	--	1/4 th of the area Rule 11(4)	Not Sufficient	100% Violation



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Sl. No.	Details	Required as per MASTER PLAN	Required as per Hill Station Building Rule	As per Site	% Violation of
10.	Plot coverage	40%	75% Rule 11(4)	96.30%	100% Violation
11.	Car Parking		238 Sq.Mt.	Not provided	100% Violation

3.It is the contention of the learned counsel appearing for the petitioners that these are only minor violations and not major violations of the Master Plan. It is also stated that the petitioners are always ready to reduce the height of the building. It had been stated that all these facts which had been raised by the petitioners have not been considered by the District Collector, who had been passed the order consequent to which the Government order aforementioned was passed.

4.Heard learned counsels on either side.

5.The petitioners' commercial building is in survey number RS.No.1772 in Ooty and the building had been put up, according to the petitioner, only with minor violations of the rules and regulations of the 2nd



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respondent. A notice was however issued and directions had been issued based on the aforementioned Government order.

6.The revision petitioners had constructed the commercial building without obtaining necessary approval of the building plan and further violating the control rules of Master Plan and Hill Area Building Rules, 1993. The violations have been set out aforementioned. They are quite serious in nature. It had been very clearly pointed out by the District Collector, Udhagamandalam that none of the violations can be rectified and cannot be permitted to remain and the only option is to demolish the building at the cost of the municipality.

7.The petitioner filed a review application. The review application was examined but however, it was dismissed.

8. I find no merits to interfere with the Government order passed.



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9. On the face of it, the petitioner has violated every possible rule governing construction of a commercial building.

10. I am informed about a judgment of a learned Single Judge in C.R.P.No.2007 of 2016 dated 12.03.2020 wherein, the learned Single Judge had also similarly affirmed demolition. It is informed that against the said order passed by the learned Single Judge, the Hon'ble Supreme Court had granted stay.

11. The facts in the instant case are different. The violations are glaring. Questioning the order of the 2nd respondent / District Collector a review was filed. The review was decided on merits and each and every aspect was considered and held against the petitioners affirming the fact that the violations were directly against the rules and regulation of the Master Plan and Hill Area Building Rules, 1993. The petitioner has to abide with the directions to demolish the building.

12. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is



closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-speaking order



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To:-

- 1.The Secretary,
Municipal Administration and Water
Supply (MA1) Department,
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- 2.The District Collector,
The Nilgris at Uthagamandalam.
- 3.The Commissioner,
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C.V.KARTHIKEYAN, J.

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