



W.P(MD)No.26977 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26977 of 2022
and
WMP(MD)No.21145 of 2022

R.Gunasekaran

... Petitioner

vs.

The Commissioner,
Karur Municipal Corporation,
Karur.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings A.Pa.Ka.No.06/2022 dated 23.11.2022 and quash the same as illegal and arbitrary.

For Petitioner : Mr.B.Saravanan
For Respondent : Mr.K.Bala Subramani



W.P(MD)No.26977 of 2022

WEB COPY

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

The petitioner has filed this writ petition for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings A.Pa.Ka.No. 06/2022 dated 23.11.2022 and quash the same as illegal and arbitrary.

2. The petitioner is the owner of the land and building in S.F.No.399 admeasuring 10 cents situated at Thoranakalpatti Village, Karur Taluk, Karur District, which was originally belonged to one P.Subramani who executed a will dated 25.10.2010 in favour of his wife namely, S.Baby who in turn, executed a registered settlement deed dated 31.10.2011 in favour of the petitioner's wife and her sister. Eversince the execution of the settlement deed, the petitioner is residing in the said property along with his family. Since the residential house situated in the aforesaid place was in a dilapidated condition, the petitioner decided to demolish the superstructure and to

2/7



W.P(MD)No.26977 of 2022

WEB COPY

construct a new building. The said construction is at the ground floor roof concrete level. A septic tank was constructed with a depth of 7 feet covered with concrete roof with a manhole. While constructing the roof of the septic tank, it was supported by wooden scaffolding and the manhole was also closed with a cover. After curing the septic tank roof, the workmen removed the septic tank cover and entered into the septic tank to remove the roof concrete wooden support on 15.11.2022, however, they got fainted for want of oxygen and another 2 workmen who entered into the septic tank to rescue, also got fainted. Later on, all the 4 workmen died in the septic tank due to asphyxiation. The bodies of the deceased workmen were recovered by the fire service personnel. In the meantime, the respondent passed a preliminary order dated 16.11.2022, invoking the powers under Section 296(1) and (2) of the Karur Municipal Corporation Act, 2022, directing the petitioner to stop the construction of the aforesaid building and directed to remove the unauthorised construction within 15 days. The petitioner's wife made a representation on 21.11.2022 to the respondent requesting 15 days time to file reply to the



W.P(MD)No.26977 of 2022

preliminary order on the ground that the petitioner was in prison. In the meanwhile, the respondent has passed the impugned order dated 23.11.2022, thereby, the preliminary order dated 16.11.2022 has been made absolute and the respondent rejected the representation dated 21.11.2022 submitted by the petitioner's wife and directed the petitioner to remove the superstructure within a period of three days. Challenging the said order, the petitioner has filed this writ petition.

3. Learned counsel for the petitioner submitted that the petitioner made an attempt to submit the application to the respondent through online portal, but the same did not accept the application of the petitioner and there was also an error message in the Website.

4. Per contra, learned standing counsel appearing for the respondent, on instructions, submitted that if the petitioner submits online application by complying all the requirements, the online portal will accept the said application. Here, the petitioner has not fulfilled



W.P(MD)No.26977 of 2022

WEB COPY

all the requirements and finding that there is a violation of the building rules, the petitioner's application has been rejected.

5. We have heard the learned counsel for the parties and perused the materials available on record.

6. We are of the view that the petitioner has unauthorisedly constructed the aforesaid building without getting permission from the authority concerned and therefore, we are not inclined to grant any relief to the petitioner. But however, on the request of the petitioner, 30 days time is granted to the petitioner to submit the application and get appropriate orders from the authority concerned. The petitioner has also filed an undertaking affidavit that until such building permission is granted by the competent authority, he will not make any further construction.

7. In view of the above submission of the learned counsel for the petitioner and the undertaking affidavit of the petitioner, the



W.P(MD)No.26977 of 2022

WEB COPY

impugned order dated 23.11.2022 shall be kept in abeyance only for a period of 30 days from today. The undertaking affidavit shall form part of this order. If the petitioner fails to obtain building permission within 30 days time, it is open to the respondent to take appropriate action against him for violation of undertaking affidavit. At any circumstances, no further time will be granted.

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K.,J.] & [R.V.,J.]
12.12.2022

Index : Yes / No
Internet : Yes
bala

To

The Commissioner,
Karur Municipal Corporation,
Karur.



WEB COPY



W.P(MD)No.26977 of 2022

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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ORDER MADE IN
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DATED : 12.12.2022