



W.P.No.16949 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.1.2023

CORAM

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.No.16949 of 2015
and M.P.No.1 of 2015

C.M.Kamaraj

...

Petitioner

Vs.

1 The Regional Deputy Director,
Town And Country Planning, Coimbatore Region,
Coimbatore-18.

2 The President,
Subbegoundar Pudur Panchayath,
Subbegoundar Pudur Village,
Pollachi Taluk, Coimbatore District.

...

Respondents

Prayer : The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records pertaining to the 1st respondents proceedings dated 25.05.2015 in Na.Ka.No. 1645/2015/ Koma-4 and quash the same.

For Petitioner : Mr.T.S.Arthanarayanan for
Dr.S.R.Kalyani
For Respondent No.1 : Mrs.R.Anitha, Spl. G.P.
For Respondent No.2 : No appearance

ORDER

Writ petition filed challenging the impugned notice dated 25.05.2015 issued by the first respondent stating that the approval given by the



W.P.No.16949 of 2015

second respondent Panchayat will not apply to the container rooms made by the petitioner and therefore, restore the land in original condition.

2. The main contention of the learned counsel appearing for the petitioner is that the President of the Panchayat granted permission for the building which includes fixing containers to run resorts. According to him, once Panchayat has already granted permission, the Regional Deputy Director, Town And Country Planning, the first respondent herein has no power to interfere with the same. It is also the contention of the learned counsel for the petitioner that plan has been sanctioned by the second respondent and therefore, the impugned notice is liable to be quashed.

3. In the counter affidavit filed by the first respondent, it is stated that on receiving a complaint from one Thiru S.V.Subbiah of Subbe Goundan Pudur Village, the site of the petitioner was inspected and it was ascertained that Guest house buildings and Restaurant were constructed in the land which is Non Plan area and without the approval/ permission which is required under Sec.47-A of the Tamilnadu Town and Country Planning Act, 1971 and without the consultation of the first respondent which is required under Rule 25 of Tamilnadu Pachayat Buildings Rules, 1997. Therefore, the first respondent issued the impugned notice under section 56 & 57 of Town and Country Planning Act, 1971. Hence, opposed the writ petition.



W.P.No.16949 of 2015

4. The learned counsel appearing for the petitioner would submit that since Panchayat President has already granted permission to run Resort by way of fixing container rooms, there is no need to obtain permission from the first respondent and therefore, the impugned notice is without jurisdiction.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent and perused the materials available on record.

6. A perusal of the typed set filed in support of the writ petition, the petitioner claims to have obtained permission to construct a building and the proceedings was issued as if the permission was granted to construct a building and run Resort therein. However, in the plan it shows some containers, whereas planning permission proceedings indicate that permission was granted to construct a building only. Be that as it may.

7. The Tamil Nadu Panchayat Building Rules, 1997 has defined "Public Building" as follows:

"Public building" means any building to which the public or any class or section of the public are granted access or any building which is open to the public or any class or section of the public and includes any building -



W.P.No.16949 of 2015

(a) used as a -

(i) Educational Institution including School or College; (ii) hostel ; (iii) library ; (iv) hospital, nursing home, dispensary, clinic, maternity centre or any other like Institution; (v) club ; (vi) lodging house ; (vii) coffee house, boarding house or hotel or an eating house;

(b) used by any Association ;

(c) ordinarily used by the -

(i) Central or any State Government or any Local Authority or any body Corporate, owned or controlled by the Central or any State Government ;

(ii) public or any class or Section of the public for religious worship or for religious congregation ;"

8. From the above definition, though the learned counsel for the petitioner has accepted the aforesaid Rules, submits that only metal structure has been put up still it comes within the ambit of the building. Therefore, according to the counsel for the petitioner, since permission was already accorded by the executive authority of the Panchayat, no further permission required from the Town and Country Planning Department. At this juncture, it is relevant to extract Rule 25 of the Tamil Nadu Panchayat Building Rules which deals with approval for construction of public building which reads as follows:

"25. Multi-storeyed and Public buildings: Every person intending to construct reconstruct, add to or alter any public building other than Government building shall follow the provisions of the Multistoreyed and Public Building Rules, 1973 issued under the Tamil Nadu District Municipalities Act, 1920



W.P.No.16949 of 2015

(Tamil Nadu Act V of 1920):

Provided that the Executive Authority shall not grant approval for construction, reconstruction, addition or alteration of any such building without consulting the concerned Joint Director or Deputy Director of Town and Country Planning."

Therefore, in respect of any public building, permission of the Town and Country Planning is necessary under Rule 25 of the Tamil Nadu Panchayat Building Rules, 1997.

9. Such view of the matter, Rule 25 requires permission from the authorities under the Town and Country Planning Act and therefore, the petitioner cannot challenge the impugned order.

10. With the above observations, the writ petition stands dismissed. No costs. It is well open to the petitioner to file fresh application before the authorities concerned for regularisation. Connected miscellaneous petition is closed.

24.1.2023

Speaking/Non Speaking order

Neutral citation: Yes/No

Index: Yes/No

vaan

To

- 1 The Regional Deputy Director,
Town And Country Planning, Coimbatore Region, Coimbatore-18.
- 2 The President,
Subbegoundar Pudur Panchayath,
Subbegoundar Pudur Village, Pollachi Taluk, Coimbatore District.



WEB COPY



W.P.No.16949 of 2015

N.SATHISH KUMAR, J.

vaan

W.P.No.16949 of 2015

Dated: 24.1.2023