



WEB COPY



W.P.No.5300 of 2023 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.5300, 5303, 5309, 5312, 5313, 5316 and 5321 of 2023

and

W.M.P.Nos.5336, 5341, 5345, 5346, 5347, 5349 and 5351 of 2023

W.P.No.5300 of 2023

P.Shanmugam

.. Petitioner

Vs.

1.The Commissioner,
Krishnagiri Municipality,
Krishnagiri, Krishnagiri District.

2.The Deputy Director,
Town and Country Planning,
Dharmapuri District.

.. Respondents

(R2 is suo-motu impleaded by this Court vide
order dated 23.02.2023)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.798/2021/F1, dated 11.01.2023



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and quash the same and consequently direct the respondent to regularize the petitioner building situated in Door No.452-D, Kamala Nagar, Gandhi Road, Krishnagiri, Krishnagiri District.

For Petitioners : Mr.C.Prakasam
(in all WPs)

For R1 : Mr.B.Anand
Standing Counsel
(in all WPs)

For R2 : Mr.E.Vijay Anand
Additional Government Pleader

COMMON ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

These Writ Petitions are filed challenging the order passed by the respondent by his Proceedings in Na.Ka.No.798/2021/F1, dated 11.01.2023 and consequently, to direct the respondent to regularize the petitioners' building in question.

2. By consent of both the learned counsel appearing for the petitioners, Mr.B.Anand, learned Standing Counsel, who takes notice for 1st respondent as well as Mr.E.Vijay Anand, learned Additional



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Government Pleader, who takes notice for 2nd respondent, these writ petitions are taken up for final disposal at the stage of admission itself.

3. Heard Mr.C.Prakasam, learned counsel appearing for the petitioners, Mr.B.Anand, learned Standing Counsel appearing for the 1st respondent as well as Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the 2nd respondent and perused the entire materials on record.

4. The learned counsel appearing for the petitioners submitted that the petitioners have purchased the properties in question by the Registered Sale Deeds dated 21.03.2007, 19.02.2007, 13.07.2006, 29.03.2006, 14.06.2010, 23.08.2012 and 19.02.2007 respectively and they have constructed building in their respective properties. They had obtained 'No Objection Certificate' from the Forest Department for running commercial shops. They also obtained electricity service connection and are paying the property tax to the 1st respondent. Earlier the layout was unapproved layout. The said layout was approved by the 1st respondent by proceedings dated 10.01.2022. In view of the approval of layout, the petitioners sent applications for regularisation of their



buildings. However, the 1st respondent issued a notice dated 17.11.2022 stating that as per the order of this Court made in W.P.No.7723 of 2021, dated 24.03.2021, the 1st respondent is taking steps to remove the building and machineries with the help of police. The learned counsel appearing for the petitioners submitted that the petitioners are not causing any sound and air pollution. In the writ petition relied on by the 1st respondent, the petitioners were not impleaded as parties. Thereafter, the 1st respondent issued another notice dated 24.11.2022 to the petitioners for demolition of the buildings in question.

5. The learned counsel appearing for the petitioners further submitted that as per the Government Orders in G.O.Ms.Nos.110 and 111, Housing and Urban Development Department, dated 22.06.2017, the petitioners are entitled to get relief for regularisation. Therefore, the petitioners made representation dated 19.12.2022 to the 1st respondent requesting to drop all further proceedings till orders are passed on their request for regularisation. But no order has been passed by the 1st respondent. Hence, the petitioners approached this Court by way of filing Writ Petitions in W.P.Nos.222, 224, 225, 226, 227, 230 and 231 of 2023 forbearing the 1st respondent herein from evicting and demolishing the



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petitioners' commercial shops, till the disposal of their representation dated 19.12.2022 for regularisation.

6. This Court by the order dated 05.01.2023 in W.P.Nos.222, 224, 225, 226, 227, 230 and 231 of 2023 has passed the following order:-

“6. It is the case of the petitioner that no notice was issued to the petitioner under Section 216 (2) of the Tamil Nadu District Municipalities Act, before issuing notice under Section 216 (3) of the Tamil Nadu District Municipalities Act dated 24.11.2022. On a perusal of notice dated 24.11.2022 it is seen that in the reference it has been mentioned “notice under Section 216 (2) of the Tamil Nadu District Municipalities Act”, but the respondent has not mentioned any reference number, date of issue of notice issued under Section 216 (2) of the Tamil Nadu District Municipalities Act.

7. Considering the above materials, the respondent is directed to consider the representation of the petitioner dated 19.12.2022 and pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order after affording



opportunity to the petitioner. Till such time, the respondent is restrained from taking any coercive steps against the petitioner.”

7. The learned counsel appearing for the petitioners further submitted that pursuant to the above said order, the petitioners have approached the 1st respondent requesting to regularise their buildings in question by producing the copy of the above said order passed by this Court. However, the 1st respondent rejected the request of the petitioners by its Proceedings in Na.Ka.No.798/2021/F1, dated 11.01.2023 on the ground that they did not obtain any building plan approval. Therefore, the petitioners have come out with the present writ petitions.

8. The learned counsel appearing for the petitioners further submitted that the Deputy Director, Town and Country Planning, Dharmapuri District is the competent authority for regularising the unauthorised construction put up by the petitioners and they will make fresh application for regularisation before them.

9. In view of the above submission made by the learned counsel



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appearing for the petitioners, the Deputy Director, Town and Country Planning, Dharmapuri District is *suo-motu* impleaded as 2nd respondent in the present writ petitions.

10. Mr.B.Anand, learned Standing Counsel appearing for the 1st respondent submitted that the petitioners have constructed the building without obtaining any permission and buildings are unauthorised construction. The petitioners are not entitled to carry on commercial activities in the said area. The impugned order passed by the 1st respondent is proper and valid and prayed for dismissal of all the writ petitions.

11. It is seen from the impugned order that the request of petitioners for regularisation was rejected on the ground that the layout was unapproved. The learned counsel appearing for the petitioners submitted that layout has been approved by the 1st respondent by his proceedings dated 10.01.2022 bearing Na.Ka.No.1386/2021/F1. The petitioners have filed the same in the typed-set of papers.

12. In view of said submission, the petitioners are directed to give



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fresh application for regularisation enclosing all the documents including the proceedings of the 1st respondent dated 10.01.2022 regularising the layout to the respondents within a period of three weeks from the date of receipt of a copy of this order. On receipt of said application, the Deputy Director, Town and Country Planning, Dharmapuri District is directed to consider the same taking into consideration layout approval granted by him and pass orders in accordance with law, after giving personal hearing to the petitioner within a period of eight weeks thereafter. Till such time, the 1st respondent is restrained from taking any coercive steps against the petitioners.

13. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.M.V., J) (R.H., J)
23.02.2023

Index : Yes / No
Neutral Citation : Yes / No
dm



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To

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