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W.P.No. 8198 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.04.2023**

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI**

W.P.No. 8198 of 2023

Mr. M. Arunachalamoorthi

... Petitioner

Vs.

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

2. The Commissioner,
Coimbatore Corporation,
Big Bazaar Street,
Town Hall,
Coimbatore – 641001.

3. The Assistant Commissioner,
Coimbatore Corporation,
Central Division,
Gopalapuram,
Coimbatore – 641 018.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, calling for the records of the second respondent in respect of the impugned notice dated 20.02.2023 in Na.Ka.No.10116/2021/H1(ma) and quash the same and consequently direct the second respondent to consider the petitioner's revised plan submitted for approval so as to comply the order of the first respondent.

For Petitioner : Mr. S.S.Swaminathan

For Respondents : Mrs.R.L.Karthika
Government Advocate
for first respondent
Mr.N.Umapathi
for respondents 2 and 3

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

The petitioner is the owner of the property situate at D.No. 996 A & 996 C, Trichy road, Ramanathapuram, Coimbatore. The second respondent, in the year 2017 had sealed the second floor and terrace of the property in question, on the ground of unauthorized construction. Thereafter, the petitioner preferred an appeal to the first respondent but the same was not considered. Aggrieved by the same, the petitioner had filed W.P.No.19202 of 2021 before this Court. This Court, by order dated 23.09.2021, had directed the first respondent to dispose of the aforesaid appeal within a period of eights weeks. The first respondent passed an order dated 12.01.2022

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granting three months' time to the petitioner to rectify the defects and to obtain revised planning permission as per the existing rules. After the order of the first respondent, the Member Secretary/Joint Director, Coimbatore Local Planning Committee, Coimbatore, has passed orders for removing the lock and seal of the premises, vide proceedings in Na.Ka.No. 5276/2022/Yo.Thi.Ku dated 09.09.2022, pursuant to the direction issued by this Court. The petitioner has submitted a revised plan rectifying the defects in the existing building and sought permission for construction.

2. In the meantime, the third respondent issued demand notice dated 02.01.2023, directing the petitioner to pay a sum of Rs.94,760/- for demolition and reconstruction fee for getting approval of revised planning permission from the authorities. Though the petitioner approached the authorities for getting approval of revised plan, it is not materialized till date. But, however on the contra, the respondent has served the impugned notice dated 20.02.2023 to the petitioner to remove the unauthorized and deviated portion, within three days, failing which to carry out locking and sealing of the building. Challenging the said order, the present writ petition has been filed.



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3. According to the learned counsel for the petitioner, the petitioner made an attempt to submit application to the respondent Corporation through online but the same could not be uploaded through online. Therefore, he is not in a position to submit the said application.

4. Learned counsel for the respondent Corporation, on instructions, submitted before this court that pursuant to the directions of the Deputy Director of Town and Country Planning, three months' time was granted to rectify the defects and to get the revised approval of the authorities concerned. But the petitioner has neither rectified the defects nor obtained revised approval plan from the competent authorities. Therefore the present impugned order is justified.

5. Learned Standing Counsel, appearing for respondents 2 and 3, refuted the said allegation of the petitioner and submitted that the petitioner has to approach the Deputy Director of Town and Country Planning. Therefore, the contention of the petitioner is incorrect and the petitioner is having an effective remedy of approaching the authority concerned under the provisions of the Town and Country Planning Act.



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6. The petitioner has filed an affidavit before this Court that the application could not be uploaded even with the assistance of the Assistant Town Planning Officer of the second respondent and therefore, the application was delivered to him on 23.03.2023. The petitioner has also undertaken to keep the 2nd and terrace floor of the premises bearing Door No.996, Nataraja Devear Colony, Trichy Road, Ramanathapuram, Coimbatore, as vacant, pending consideration of his application for approval of the revised building plan.

7. In the light of the said undertaking, the learned counsel for the Corporation may advise the authorities for not taking steps for locking and sealing of the premises for a period of two weeks.

8. Therefore, in view of the above, we are granting liberty to the petitioner to appear before the Deputy Director of Town and Country Planning and make a proper application for seeking revised planning approval, if so advised, within a period of two weeks from the date of receipt of a copy of this order.



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9. With the above directions, the writ petition stands disposed of. No costs. Consequently, WMP No.8421 of 2023 is closed.

(D.K.K., J.) (K.G.T., J.)
21.04.2023

Intex : Yes/No
Internet : Yes/No
mrn

To

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D.KRISHNAKUMAR, J.
and
K.GOVINDARAJAN THILAKAVADI, J.
(mrn)

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