



WEB COPY



W.P.No.9673 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.9673 of 2022

and

W.M.P.Nos.9415 and 9416 of 2022

R.Mohala

.. Petitioner

Vs.

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

2.The Director,
Town and Country Planning Department,
II, III and IV Floor, CMDA Building,
E&C Market Road,
Koyambedu, Chennai – 600 107.

3.The Assistant Director,
Town and Country Planning Department,
No.56-A, Government Hospital Road,
Villupuram.

4.The Commissioner,
Panruti Municipality,
Panruti.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for all the records of the 1st Respondent culminating in the Order dated



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01.02.2021, bearing Government Order (3D) No.19 passed by the 1st Respondent, the Principal Secretary, Housing and Urban Development (Na.Va-5(1)) Department and quash the same and direct the 2nd Respondent to grant building plan approval to the Petitioner's commercial building with a built-up area of 466 sq.m., situated at Ward – A, Block No.50, Door Nos. 84, 85, 86, 86A, comprised in Old S.No. 98/27, measuring an extent of 5040 sq.ft., situated in Panruti Municipality.

For Petitioner : Mr.K.R.Arun Shabari

For Respondents : Mr.P.Gurunathan
Additional Government Pleader

ORDER

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

The present Writ Petition is filed to quash the order of first respondent and direct the 2nd respondent to grant building plan approval to the Petitioner's commercial building situated in Panruti Municipality.

2. Heard Mr.K.R.Arun Shabari, learned counsel appearing for the petitioner as well as Mr.P.Gurunathan, learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.



3. The petitioner is owner of the property comprised in Old S.No.98/27 situated in Ward – A, Block No.50, Door Nos. 84, 85, 86 and 86A measuring to an extent of 5040 sq.ft, Panruti Municipality. She obtained permission for putting up construction of ground + first floor measuring to an extent of 2136 sq.ft. Due to financial difficulty, she could not construct the building. Subsequently, she obtained revised plan approval dated 12.01.2015 for construction of ground + first floor measuring to an extent of 1890 sq.ft. Again, she made an application dated 04.04.2016 to the 4th respondent seeking approval for the revised building plan for ground + two floors and basement floor. The said application was rejected by the 4th respondent. She made another application dated 26.08.2016 to the Municipal Council seeking approval for the revised building plan. Thereafter, the petitioner received a reply from the 4th respondent dated 31.08.2016 refusing to grant approval. According to the petitioner, the Municipal Council did not reject the application as per Section 202(2) of the Tamil Nadu District Municipal Act, 1920. She had deemed approval after lapse of one month from the date she made application to Municipal Council. In the meanwhile, she also made application dated 22.07.2016 to the 3rd respondent. The said application was rejected by the 3rd respondent on the ground that civil



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suits filed by one M.Siva in O.S.No.15 of 2016 and O.S.No.85 of 2016 are pending on the file of the District Munsif, Panruti.

4. According to the petitioner, in view of the deemed approval, she constructed the building as per the revised plan. The said M.Siva has filed writ petition in W.P.No.6516 of 2017 for issuing a direction to the 5th respondent therein to take action against the petitioner/7th respondent therein for unauthorised construction put up by her. This Court by the order dated 07.02.2018 directed the petitioner herein to demolish the violated portions of the building within a period of one month from the date of receipt of a copy of that order, failing which, this Court directed the authorities concerned to take action within a period of one month thereafter. Aggrieved by the said order, the petitioner herein filed S.L.P.(C).No.12460 of 2018 before the Hon'ble Apex Court. The Hon'ble Apex Court by the order dated 14.05.2018 granted interim stay of the operation of the said order and the said SLP is pending. In such circumstances, the petitioner has sent a representation dated 05.07.2018 to the 1st respondent seeking approval of the building plan for the construction put up in the above mentioned property and it was forwarded to the 2nd respondent by the 1st respondent. In turn, the 2nd



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respondent forwarded the said representation to the 3rd respondent. The 3rd respondent returned the same in view of pendency of the proceedings before the Hon'ble Apex Court. The petitioner filed an appeal before the 1st respondent and the 1st respondent after granting opportunity of personal hearing through video conference, dismissed the appeal filed by the petitioner by the impugned Government Order in G.O.(3D).No.19, Housing and Urban Development (Na.Va-5(1)) Department, dated 01.02.2021. Challenging the said order, the petitioner has come out with the present writ petition.

5. The learned Additional Government Pleader appearing for the respondents referred to the earlier order passed by this Court and the order of the Hon'ble Apex Court and submitted that already the Division Bench of this Court directed the petitioner to demolish the unauthorised construction within a period of one month and in view of the pendency of S.L.P.(C).No.12460 of 2018, the respondents are not taking any steps to consider the request of the petitioner. Depending upon the orders passed by the Hon'ble Supreme Court, the petitioner's request will be considered.



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6. Considering the above submissions made by the learned Additional Government Pleader appearing for the respondents, the petitioner is not entitled for the relief now sought for and the petitioner is given liberty to renew her request for regularisation based on the orders to be passed by the Hon'ble Apex Court in S.L.P.(C).No.12460 of 2018.

7. With the above observations, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.M.V., J) (R.H., J)
12.01.2023

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



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