



W.P.No.13504 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM:

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

W.P.No.13504 of 2022
and
W.M.P.No.12687 of 2022

ARR SRINIVASAN RAJESWARI CHARITABLE TRUST,
Rep. By its Managing Trustee, S.Ravichandran,
Nos.7, 8, 9
Car Street,
Salem - 636 001.

.. Petitioner

Vs.

1.The Director,
Town and Country Planning,
2nd, 3rd & 4th Floor,
C & E Market Road,
Koyambedu,
Chennai – 600 107.

2.The Assistant Director,
Town and Country Planning,
District Town and Country Planning Office,
No.6, Sannathi Street,
Subramaniya Nagar,
Suramangalam,
Salem – 636 005.

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of proceedings of the 2nd Respondent in the Impugned Notice dated 10.05.2022 bearing Na.Ka.No.3228/2015/Sema-1, quash the same.

For Petitioner : Mr.S.Senthil
for Mr.R.Anbukarasu

For Respondents : Mrs.R.L.Karthika
Government Advocate

ORDER

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

The present Writ Petition is filed to call for the records of proceedings of the 2nd respondent in the Impugned Notice dated 10.05.2022 bearing Na.Ka.No.3228/2015/Sema-1 and quash the same.

2. Heard Mr.S.Senthil, learned counsel appearing for the petitioner as well as Ms.R.L.Karthika, learned Government Advocate appearing for the respondents and perused the entire materials on record.

3. The petitioner is running an Educational Institution in the name



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and style of “ARRS Academy”. The petitioner applied for approval of building plan before the respondents and the 2nd respondent granted building approval. According to the petitioner, the building is constructed strictly in accordance with approved plan. The 2nd respondent in the year 2014, by letter dated 14.05.2014 called upon the petitioner to execute the gift deed for OSR land measuring to an extent of 59590 sq.ft., to the local authority. The petitioner sought for retaining the OSR land and pay the guideline value. According to the petitioner, as they did not gift the OSR land, the 2nd respondent has issued impugned notice without application of mind in a cyclostyled notice. The 2nd respondent also did not furnish the letter dated 30.07.2013 issued by the Commissioner, Town and Country Planning and another letter dated 15.07.2014 of the State Principal Accountant General, Chennai. For the above reasons, the petitioner is seeking to set aside the impugned notice. In support of his contention, the learned counsel appearing for the petitioner also relied on the order of this Court dated 25.09.2015 made in W.P.(MD)No.17383 of 2015.

4. Per contra, the respondents 1 and 2 filed counter affidavit.



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Mrs.R.L.Karthika, learned Government Advocate appearing for the respondents submitted that the 2nd respondent has inspected the building put up by the petitioner and found various deviations from the approved plan. The 2nd respondent has given details with regard to deviation in the building constructed by the petitioner in the counter affidavit filed by the respondents 1 and 2. The 2nd respondent also stated that the representation of the petitioner dated 03.12.2021 for retaining OSR on payment of guideline value was rejected on 27.12.2021 and petitioner is not entitled to retain the OSR land. After rejection of the request, the petitioner has not challenged the rejection order and prayed for dismissal of the writ petition.

5. From the above materials and rival submissions of the learned counsel appearing for the petitioner and learned Government Advocate appearing for the respondents, it is seen that the petitioner obtained building plan and has put up the superstructure. According to the petitioner, he has put up the superstructure strictly in accordance with approved building plan. On the other hand, it is the case of the respondents that on inspection it was found that there are some deviations from the approved plan and some additional constructions were put up by



the petitioner. This Court, in the writ petition cannot decide whether there is any deviation from the approved plan and whether the petitioner has put up additional building apart from the approved plan. The learned counsel appearing for the petitioner submitted that as per G.O.Ms.No.161, Housing and Urban Development [UD4(3)] Department, dated 26.06.2013, the Educational Institutions are permitted to retain the OSR Land and it is not necessary to hand over the OSR land to the Local body.

6. The impugned notice has been issued by the 2nd respondent under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and as per the said provisions, the petitioner has right to submit his explanation and the respondents are bound to consider the explanation and pass orders. In view of the provisions of Tamil Nadu Town and Country Planning Act, 1971, the petitioner is directed to submit his explanation to the respondents enclosing all the documents with regard to building approval. If any such explanation is given, the respondents are directed to consider the same taking into consideration the Government Order in G.O.Ms.No.161, Housing and Urban Development [UD4(3)] Department, dated 26.06.2013 and order of this



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Court dated 25.09.2015 made in W.P.(MD)No.17383 of 2015 and also provisions of Tamil Nadu Combined Building Rules, 2019. Till orders are passed, the respondents are restrained from taking any coercive steps.

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

(V.M.V., J) (R.H., J)
25.01.2023

Index : Yes / No

Neutral Citation : Yes / No

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