



WEB COPY



W.P.No.15278 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM :

THE HONOURABLE MRS.JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.No.15278 of 2021
and WMP.Nos.16168 & 18385 of 2021

N.K.Ramakrishnan

.. Petitioner

VS

1.The Government of Tamilnadu
Represented by its Secretary
Housing and Urban Development Department
Secretariat, Chennai-600 009

2.The Commissioner
Directorate of Town and Country Planning
Chengalvarayan Building
4th floor, 807 Anna Salai, Chennai-600 002

3.The Deputy Director
Directorate of Town and Country Planning
Salem region, 6, Sannadhi Street,
Subramania Nagar, Sooramangalam,
Salem – 636 005

4.The Commissioner
Attur Municipality, Municipality Office,
Attur, Salem District-636 102

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the



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2nd Respondent in his impugned order dated 11.06.2021, bearing reference Na.Ka.No.615/2021 TCP 4, and quash the same as illegal, arbitrary and against the provisions of TNCD and BR 2019.

For Petitioner : Mr.Ganesan
for M/s.Ganesh and Ganesh

For Respondents : Mr.P.Gurunathan (for R1)
Additional Government Pleader
Mr.C.S.Srinivasan (for R2 & R3)
Mr.B.Anand (for R4)

ORDER

(Order of the Court was made by V.LAKSHMINARAYANAN,J.)

The petitioner seeks for a writ of certiorari to call for the records on the file of the second respondent in his impugned proceedings dated 11.06.2021.

2.According to the petitioner, he is the owner of the premises bearing Door Nos.1092 and 1096/1, Block No.9, Ward-D, Salem-Cuddalore Road, Attur.

3.It is the case of the petitioner that he had obtained approval for constructing a superstructure consisting of ground and first floor from the 4th respondent. This permission was granted on 22.02.2017. The total FSI permissible is 4915 sq. ft. and as per the Development Control Rules, the petitioner could have put up the construction twice the square feet amounting to 9830 sq. ft.



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4. According to the petitioner, though he is entitled to put up more without deviating from the approved plan, he had put up a construction and has completed the same. It transpires that at the instance of a third party, an inspection had been carried out and it came to notice that there has been some deviation and there was no set back.

5. When the writ petition came up for admission, this Court by an order dated 28.07.2021 had appointed Mr. Babu Rangasamy, as an Advocate Commissioner.

6. Mr. Babu Rangasamy was directed to inspect the construction of the property which is the subject matter of the writ petition together with the Taluk Surveyor and officials of the local body namely, the Attur Municipality. He was also directed to carry out inspection in the presence of both the revenue authorities, Attur Municipality as well as the writ petitioner. He had visited the site on 28.08.2021 in execution of the warrant. The said Commissioner has submitted a report stating that as per his inspection and also as per the sketch and report submitted by the Deputy Planning Inspector, the building which is the subject matter of the writ petition has been constructed with necessary set back and that there is no violation in the construction made by the writ petitioner. None of the respondents have submitted any objection to the report of the



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Advocate Commissioner.

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7.A counter has been filed stating that there are violations. As per Order 26 Rule 10(2) of the Code of Civil Procedure, an Advocate Commissioner's report can be received in evidence in a proceeding. The Advocate Commissioner having clearly and categorically submitted a report that there is no violation and no objection having been filed to the same, we have no reason to disbelieve the report. On the contrary, we accept the report and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

8.Additional remuneration of Rs.50,000/- will be paid by the petitioner to the Advocate Commissioner.

9.WMP.No.18385 of 2021:- In view of the Advocate Commissioner's report that there is no violation, there is no necessity for any third party to assist the Court. Hence, WMP.No.18385 of 2021 is dismissed.

(J.N.B,J.) (V.L.N,J.)
04.09.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs



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