



W.P.No.19376 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.19376 of 2020
and
W.M.P.No.23963 of 2020

G.Muthu

S/o M.Gurusamy

...Petitioner

VS

1. The Government of Tamil Nadu,
rep. by its Principal Secretary,
Housing and Urban development,
[UD4(3)] Department,
Secretariat,
Chennai - 600 009.
2. The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.
3. The Deputy Director of Town and Country Planning,
Chengalpattu Region,
No.124, G.S.T.Road,
Chengalpattu-1.
4. The Block Development Officer,
(Village Panchayats),
Panchayat Union,
Thirukalukundram.



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5. The Executive Officer,
Thirukalukundram Village Panchayat,
Thirukalukundram - 603 109.

6. S.Mohan,
S/o Late M. Shanmugam,
No.2/171, Mamallapuram Road,
Kothimangalam,
Thirukazhukundram - 603109

(R6 impleaded as per order dated 06.12.2023
passed by JNBJ & NMJ in WMP.No.24772/2023)

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records culminated in the impugned notice in Ref.Na.Ka.No.0731/2020/M3 dated 09.12.2020 issued by the 4th respondent and quash the same.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mrs.Mythreye Chandru,
Special Government Pleader for R1 to R3
Mr.D.Suriyanarayanan,
Standing Counsel for for R4 & R5
Mr.N.Sivaprakash for R6

ORDER

This writ petition has been filed challenging the impugned notice passed by the 4th respondent dated 09.12.2020, by which, it was informed that the marriage hall constructed unauthorisedly by the petitioner, will be demolished on 17.12.2020.



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2. The case of the petitioner is that he had constructed a marriage hall after duly obtaining planning approval from the Village Panchayat. On representation of the neighbours in the year 2013, demolition notice was issued to the petitioner. Aggrieved by the same, the petitioner filed Writ Petitions and Special leave Petitions. The same were dismissed with liberty to take recourse to any other remedy that may be available to the petitioner under the law. Thereafter, the petitioner submitted a plan seeking for conversion of marriage hall into residential units measuring about 6,500 sq.ft. But the respondent authority has not passed any order from the year 2014 and were dragging on the issue. Subsequently, the 4th respondent had issued the impugned demolition notice dated 09.12.2020. Hence, the present writ petition.

3. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3, the learned standing counsel appearing for the 4th and 5th respondents and the learned counsel appearing for the 6th respondent.

4. On perusal of the records, it is seen that initially, the petitioner filed a writ petition in W.P.No.6172 of 2013 challenging the rejection of appeal preferred against the order passed by the Chennai Metropolitan Development



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Authority and consequently, sought for planning permission for the said building put up in the subject property. The said writ petition was dismissed by a common order dated 20.12.2013, in which, it was observed that the marriage hall was constructed without planning permit and in total violation of the Development Control Rules. The petitioner has preferred a Special Leave Appeal before the Hon'ble Supreme Court in Special Leave to Appeal(Civil) No.2992-2993/2014 against the order passed in the above said writ petition. However, the Special Leave Petition was dismissed by order dated 10.02.2014 to enable the petitioner to take recourse to any other remedy that may be available to him under the law. The petitioner also filed Review Applications in RA.Nos.23 and 24 of 2014 before this Court and the same was dismissed. Against which, the petitioner preferred a Special Leave to Appeal (Civil) No.6401-6402/2014 before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the special leave petitions by order dated 28.02.2014, however, granted time to the petitioner till 30th June, 2014 to vacate the suit premises subject to his filing usual undertaking before the said Court within four weeks. The petitioner also sent a representation dated 27.03.2014 to the respondents seeking permission to rectify the defects, in which, he has also given an undertaking to vacate the marriage hall premises



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on or before 30th June, 2014 as per the direction of the Hon'ble Supreme Court vide order dated 28.02.2014.

5. In the affidavit filed by the petitioner, it is contended that from the year 2010, he did not use the marriage hall and kept it closed. It is further contended that the petitioner had been making several representations to the authority seeking approval of the revised plan for conversion of marriage hall into the residential units but the same was not considered.

6. Admittedly, the marriage hall was constructed by the petitioner without planning permission. However, the petitioner managed to secure electricity connection and water supply to the marriage hall. The Government, only after considering the entire issue raised by the petitioner, had rejected the appeal filed by him. The petitioner had not made slight deviation to rectify the defects or to grant permission to convert the same into residential units. There is no parking area, no rainwater harvesting, no solar power energy, no transformer yard and no waste water recycling unit. There is deviation in front set back, side set back and rear set back. The marriage hall was constructed with 100% violation of the Development Control Rules and the same was also observed in the order passed by this Court in the common order passed in W.P.Nos.6172 and 20412 of 2013. Therefore, considering the



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facts and circumstances of the case, we do not find any ground to show any indulgence in favour of the petitioner.

7. In view of the above discussion, we find no infirmity or illegality in the impugned notice dated 09.12.2020 passed by the 4th respondent. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
01.12.2023
(2/2)

vsi

Index : Yes / No

Internet : Yes / No

To

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