



CRP(NPD)No.1



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

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CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(NPD)No.19 of 2017
and C.M.P.No.93 of 2017**

Safia Khader

.. Petitioner

VS

1. The Secretary to Government
State of Tamil Nadu
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai-600 009.

2. The Commissioner,
Coonoor Municipality
Nilgiris District.

.. Respondents

PRAYER : Civil Revision Petition is filed under Section 217-L of the Tamil Nadu District Municipalities Act, Act V of 1920 as amended by Tamil Nadu Act VIII of 1992 read with Sec.115 C.P.C., praying to set aside the G.O. (Pa) No.332/Na.Ne.1/2016, dated 02.08.2016 passed by the Principal Secretary to Government, Municipal Administration and Water Supply (M.A.1) Department, Secretariat, Chennai-9.

For Petitioner : Mr.M.Muthappan

For R1 : Mr.B.Tamilnidhi
Additional Government Pleader (CS)



For R2

: Mr.P.Mohana Rangan

ORDER

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The Civil Revision Petition has been filed challenging the order passed by the respondents for the removal of unauthorised construction.

2. The petitioner in this Civil Revision Petition is the owner of a residential building. Earlier, the 2nd respondent Municipality issued a show cause notice under Section 217-B(1) and 217-J(1) of the Tamil Nadu District Municipalities Act, (hereinafter called as 'Act') alleging that, the petitioner herein has put up construction unauthorisedly. It also alleged that there are deviations from the approved plan.

3. After considering the objections submitted by the petitioner, and after conducting an enquiry, an order came to be passed under Section 217-J(2) of the Act. Challenging the order of demolition, the petitioner has filed a review petition before the 1st respondent Government under Section 217-K of the Act.

4. The 1st respondent after considering the review petition and after giving reasonable opportunity of hearing, and also considering the objections of the petitioner, dismissed the review petition, thereby confirming the order passed by the 2nd respondent. Challenging the same, the present Civil Revision Petition has been filed.



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5. I have heard Mr.M.Muthappan, learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent, and perused the records carefully.

6. On perusal of the order passed by the 2nd respondent, it could be seen that, there is not only a deviation, but there are unauthorised constructions. The authorities after giving reasonable opportunity of hearing, and also considering the petitioner's objection, passed an order under Section 217-J(1) of the Act.

7. The 1st respondent, Revisional authority, also after considering the entire materials available on record, and after conducting a proper enquiry, had confirmed the order passed by the 2nd respondent.

8. I have also considered the materials, and also submissions made by the learned counsel appearing for the petitioner, as well as the learned Additional Government Pleader appearing for the 1st respondent and learned counsel appearing for the 2nd respondent. On a careful perusal of the entire materials, I find no reason to interfere with the concurrent findings of both the authorities, and I find no merit in this Civil Revision Petition.



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9. Learned counsel appearing for the petitioner would submit that, the petitioner is a poor lady, and she has put up a residential building and residing therein.

He further submitted that some of the persons have filed applications under Section 217-Q of the Act before the Government seeking for exemption, and also relaxation. Those applications are pending for consideration before the 1st respondent Government. Hence, the 1st respondent may be directed to consider their applications and pass suitable orders.

10. According to the counsel, some of the persons are yet to file their applications, and they will also file the applications within a time fixed by the Court. On filing such applications, the Government may be directed to consider the same.

11. Considering the above circumstances, the petitioner is permitted to file a fresh application irrespective of the fact that, whether she has already filed an application seeking for exemption under Section 217-Q of the Act. On filing such an application, the 1st respondent Government is directed to consider the application, and pass suitable orders on merits and in accordance with law. The petitioner is directed to submit an application within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the 1st respondent Government is directed to consider the petitioner's application, and pass suitable orders within a period of twelve weeks after giving the reasonable opportunity to the petitioner. Till orders are



CRP(NPD)No.1.



passed by the 1st respondent on the application, the 2nd respondent is directed not to take any coercive steps for demolition.

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12. With the above direction, the Civil Revision Petition is dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

24.07.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

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V.LAKSHMINARAYANAN,J.

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