



W.P.No.30583 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023
CORAM

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

W.P.No.30583 of 2022 and
WMP.No.30011 of 2022

Nagalakshmi

.... Petitioner

vs

1. The Commissioner,
Vaniyambadi Municipality,
Vaniyambadi, Thirupattur District.

2.The Director Town and Country Planning,
Opposite to LIC, Chengalvarayan building,
Fourth Floor, 807,
Annasalai Chennai 600 002.

3.The Secretary to Government,
Town and Country Planning,
Secretariat, Chennai 600009.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned order dated 09.10.2019 in Ka.Ma. No.111/19/ fl passed by 1st respondent and quash the same consequently directing the 1st respondent to grant planning permission to the petitioner property situated in Ward No.F, Block No.23, Town S.No.1 part, situated at Door No.24/165, Pudhur Narayanasamy Mesthiri Street, Vaniyambadi Town, Thirupattur District.



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For Petitioner : Mrs.R.T.Sundari

For Respondents : Mrs.Mythreya Chandru
Special Government Pleader for R3
No appearance for R1 & R2

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed to call for the records relating to the impugned order dated 09.10.2019, passed by 1st respondent and quash the same, consequently direct the 1st respondent to grant planning permission to the petitioner's property.

2. The case of the petitioner is that the property situated in Ward No.F, Block No.23, Town S.No.1 part, situated at Door No.24/165, Pudhur Narayanasamy Mesthiri Street, Vaniyambadi Town, Thirupattur District is an ancestral property, and it was inherited to the petitioner along with other legal heirs and they were in joint possession and enjoyment till date of the aforesaid lands. However with regard to the partition, several litigations, both civil and criminal in nature, were pending between the petitioner and other legal heirs. While such being the position, for the construction made by the petitioner in the ground, she had applied for building permission with the 1st respondent.



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However the 1st respondent has passed an order of rejection dated 09.10.2019, without assigning any reasons and thereafter also passed an order of eviction on 12.04.2022, calling upon the petitioner to remove the construction made in the property in question, within three days from the date of receipt of the said order. Aggrieved by the order of eviction, the petitioner has filed WP.No.12544/2022 before this Court, however, the Division Bench of this Court had dismissed the said Writ Petition and thereafter, she filed Review Petition, wherein this Court by dismissing the Review Petition, advised the petitioner to challenge the order of rejection dated 09.10.2019. Hence, the petitioner has approached this Court by filing this Writ Petition challenging the order of rejection dated 09.10.2019.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the 3rd respondent.

4. The learned counsel appearing for the petitioner submitted that the impugned order passed by the 1st respondent is against the principles of natural justice, as no proper reasons were assigned before passing the impugned order. and therefore, it is a non speaking order and without



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assigning any reason, rejecting the petitioner's application for building permission is not sustainable and hence prays for allowing of this petition.

4. Considering the submission made by the learned counsel appearing for the petitioner, since the 1st respondent has passed a non speaking order without assigning any reason for rejecting the application for building permission, against the petitioner, this Court is inclined to set aside the impugned order in proceedings in Ka.Ma. No.111/19/ f1, dated 09.10.2019, on the file of the 1st respondent and remand the matter back to the 1st respondent for fresh consideration and the said authority shall pass a speaking order by assigning reasons.

5. This Writ Petition is allowed with the above terms. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
30.11.2023

sk
Index : Yes / No
Internet : Yes / No



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