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W.P.No.22843 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

W.P.No.22843 of 2017
and W.M.P.Nos.20412 of 2017 & 9833 of 2018

K.George Thomas

... Petitioner

Vs.

1.The Commissioner of Corporation,
Corporation of Coimbatore,
Office of Coimbatore Corporation,
Coimbatore – 641 001.

2.R.Ravichand

3.The Principal Secretary,
Housing and Urban Development Department,
Chief Secretariat,
Chennai.

.. Respondents

[R3 *suo motu* impleaded vide
order of this Court dated
29.03.2023 made in
W.P.No.22843 of 2017]

Prayer: Writ Petition filed under Article 226 of Constitution of India,
praying to issue a writ of Mandamus, directing the 1st respondent to stop



construction work and demolish the unapproved building of the 2nd respondent in the premises No.251, V.H.Road, Coimbatore – 641 001, by considering the petitioner's representation dated 29.06.2017 submitted to the 1st respondent.

For petitioner : K.Govindan
For R1 : Mr.K.Mahesh
Standing Counsel
For R2 : Ms.S.Sriranjini
for Mr.T.P.Prabakaran
For R3 : Mr.P.Gurunathan
Additional Government Pleader
(suo motu impleaded)

ORDER

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

This writ petition has been filed to direct the the 1st respondent to stop construction work and demolish the unapproved building of the 2nd respondent in the premises No.251, V.H.Road, Coimbatore – 641 001, by considering the petitioner's representation dated 29.06.2017 submitted to the 1st respondent / Corporation of Coimbatore.



2. Brief facts of the case:

The petitioner was running a furniture shop at No.250, V.H.Road, Coimbatore – 641 001 for the past 40 years in the name and style of “St.Thomas Furniture”. The next premises at No.251, V.H.Road, Coimbatore, was purchased by the 2nd respondent and he started construction works converting the residential building to commercial building. The petitioner raised objections that the construction put up by the 2nd respondent is a commercial building and without obtaining proper permission from Corporation. The said construction contains two floors and underground shops, which has no proper drainage facilities, which would affect the petitioner's construction. The petitioner had lodged complaints before the 1st respondent against the unapproved construction of the 2nd respondent and the same have not been considered. Thereafter, on 29.06.2017, the petitioner had given a representation to the 1st respondent not to develop the said construction. The said representation has not been considered by the 1st respondent and it is pending. Hence, the present writ petition.

3. Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the 1st respondent, the learned



counsel for the second respondent and perused the materials available on record.

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4. This Court, by an order dated 21.03.2018, directed the 1st respondent to file a compliance report. As per the order of this Court dated 21.03.2018, the 1st respondent had inspected the properties of the petitioner and the 2nd respondent after issuing notices to the petitioner as well as the 2nd respondent herein. On 19.03.2018, electricity connection was disconnected through TNEB authorities and the violated portions of the buildings of the petitioner as well as the 2nd respondent were sealed. Against the lock and seal, the petitioner as well as the 2nd respondent filed Special Revision Petition under Section 80-A of Tamil Nadu Country and Town Planning, Act, before the Government. Against the said order, the petitioner had filed writ petition in W.P.No.9525 of 2018 and the 2nd respondent had filed writ petition in W.P.No.9373 of 2021 to de-seal their premises.

5. This Court by an order dated 28.04.2018 in W.P.No.9525 of 2018, directed the 1st respondent to de-seal the premises of the petitioner by passing the following order;-



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“2. The petitioner's building is said to have been constructed in the year 1993 and property tax was assessed and being paid by the petitioner regularly. All of a sudden the building was sealed on 23.02.2018, on the ground that there is no approved plan. However, taking into consideration the long possession of the property and the commercial activity being done by the petitioner for the past 20 years, it is appropriate to de-seal the building and hand over the possession to the petitioner.

3. Since the Corporation is raising an important issue that the petitioner does not have any approved plan, the petitioner is at liberty to file an appeal with regularisation plan before the commissioner within two weeks from the date of receipt of a copy of this order. If it is submitted, it is open to the Commissioner to entertain the application and decide the matter as per law, within a period of two weeks thereof.”

6. This Court by order dated 27.04.2021 in W.P.No.9373 of 2021, directed the respondents therein to de-seal the premises of the petitioner by passing the following orders;-



“ 5. Taking into consideration the building was constructed in the year 2013 and the petitioner has been using the premises from the year 2013 onwards and the building was sealed on 19.03.2018, and for the past three years, the building is not in use, it is appropriate to direct the 2nd respondent to dispose of the appeal within a period of 8 weeks from the date of receipt of a copy of this order. Till such time, the respondents shall unseal the premises, so as to enable the petitioner to use the premises. The unsealing of the premises is valid only till the disposal of the appeal before the 2nd respondent. If the appeal filed by the petitioner is rejected, the respondents are at liberty to reseal the property.”

As per above orders of this Court, the properties of both the petitioner and the 2nd respondent were de-sealed.

7. The learned counsel for the 1st respondent / Commissioner of Corporation submitted that depending upon the order to be passed by the Government in the said Revision filed by the petitioner and the 2nd respondent, the Corporation will proceed further in accordance with law.



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8. In view of the above, the Principal Secretary, Housing and Urban Development Department, Secretariat, Chennai, is hereby suo motu impleaded as 3rd respondent in this writ petition and Mr.P.Gurunathan, learned Additional Government Pleader takes notice for the newly impleaded 3rd respondent.

9. Considering the above submissions, the 3rd respondent is hereby directed to dispose of the revision filed by the petitioner, since it is pending from the year 2018, within a period of two months from the date of receipt of a copy of this order.

10. With the above direction, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[V.M.V., J.] [V.L.N., J.]

29.03.2023

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Index : Yes / No

Neutral Citation : Yes / No

Speaking or Non-speaking



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V.M.VELUMANI, J.
and
V. LAKSHMINARAYANAN, J.

ata

To

- 1.The Commissioner of Corporation,
Corporation of Coimbatore,
Office of Coimbatore Corporation,
Coimbatore – 641 001.
- 2.The Principal Secretary,
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