



W.P.No.466 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.466 of 2023

and

W.M.P.No.420 of 2023

John Kirubamary

.. Petitioner

Vs.

1.The District Collector,
Vellore District, Vellore.

2.The Commissioner,
Vellore Corporation, Vellore.

3.Assistant Commissioner,
Vellore Corporation,
Zone – I, Vellore.

4.The Member Secretary,
Vellore Local Planning Commission /
Deputy Director,
District Town and Country Planning Office,
Vellore District, Vellore.

5.The Assistant Engineer,
Water Resources Department /
Public Works Department,
Irrigation Division,
Katpadi, Vellore District.

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the entire records in pursuant to the Notification issued to the Petitioner by the 3rd Respondent vide Na.Ka.No.2684/2022/F1/M1 dated 05.12.2022 and quash the same.

For Petitioner : Mr.T.P.Prabakaran

For RR 1, 4 & 5 : Mr.A.Selvendran
Special Government Pleader

For RR 2 & 3 : Mr.P.S.Prabu

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition to call for the entire records in pursuant to the Notification issued to the petitioner by the 3rd respondent vide Na.Ka.No.2684/2022/F1/M1, dated 05.12.2022 and quash the same.

2.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for respondents 1, 4 & 5 and the learned counsel appearing for respondents 2 & 3 and perused the entire materials on record.



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3. According to petitioner, she has obtained permission from the 2nd respondent for construction of residential building for ground + one floor, measuring about 624.750 sq.ft in the ground floor and 624.750 sq.ft in the first floor, totally 1249.50 sq.ft. After the construction, the 5th respondent has issued notice dated 16.12.2021, stating that the petitioner has encroached the Kazhinjur drainage canal and has put up construction. According to petitioner, she has given objection to the said notice dated 16.12.2021. While so, the 4th respondent issued notice dated 25.05.2022, stating that the petitioner constructed the residential building deviating from the planning approval given by the Vellore Corporation. On receiving the said notice, the petitioner demolished the pillars and now only there is a projection of 4 feet and 30 feet construction in the open air and all the encroachments in the ground level has been removed. While so, the 3rd respondent has issued notice dated 05.12.2022, under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971. Hence, the petitioner has come out with the present Writ Petition challenging the said notice dated 05.12.2022.

4. As per the provisions of the Tamil Nadu Town and Country Planning Act, 1971, when notice issued under Sections 56 and 57, any



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aggrieved person can give representation under Section 56(3) of the Act for retention of the construction. The petitioner, without availing the effective remedy, has approached this Court. Hence, this Writ Petition is not maintainable. However, it is open to the petitioner to give representation to the 3rd respondent with all the objections and grounds raised now.

5. With the above observations, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(V.M.V., J) (R.H., J)
09.01.2023

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

NOTE : Issue order copy on 10.01.2023.

To

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