



WP.No.368 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.368 of 2023
WMP.No.338 of 2023

K.Subramaniyan

Petitioner

Vs

1. The District Collector, Cuddalore
2. The Tahsildar, Thittakudi, Cuddalore
3. The Commissioner, Thittakudi Municipality, Cuddalore
4. The Executive Officer, Thittakudi Town Panchayat, Cuddalore
5. Jayameena

Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of planning approval, vide Na.Ka.No.75 of 2021, dated 19.04.2021, sanctioned by the 4th Respondent and to quash the same and to direct the Respondents 1 to 4 to demolish the unauthorised construction of the 3rd floor put up by the 5th Respondent at S.No.64/1a2b1, South Street, Thittakudi, Cuddalore, in pursuant to the proceedings, vide Na.Ka.Ni. 253/2018/A1, dated 23.02.2021, of the 4th Respondent.



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For Petitioner : Mr.P.Muthamizhselvakumar

For Respondents : Mr.G.Nanmaran, SGP-RR1 to 4
Mr.N.Nithianandam-R5

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

1. This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the planning approval, vide Na.Ka.No.75 of 2021, dated 19.04.2021, sanctioned by the 4th Respondent and to quash the same and to direct the Respondents 1 to 4 to demolish the unauthorised construction of the 3rd floor put up by the 5th Respondent at S.No.64/1A2B1, South Street, Thittakudi, Cuddalore, in pursuant to the proceedings, vide Na.Ka.Ni. 253/2018/A1, dated 23.02.2021, of the 4th Respondent.
2. This Court heard the learned counsel on either side, considered their submissions and perused materials placed on record.
3. The grievance of the Petitioner herein, who is a resident of the Thittakudi Village, Cuddalore District is that his neighbour, the 5th Respondent herein has constructed a house in two floors, without getting planning permission from the 1st Respondent and that she has also constructed the third floor in violation of the building regulations and that in spite of several communications made to the Official Respondents to demolish the said alleged illegal construction, no action is taken so far.
4. Earlier, since the representation of the Petitioner sent to the Official



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Respondents was not considered, the Petitioner had filed a Writ Petition in WP.No.31146 of 2018, which was disposed of by this Court, by order dated 27.11.2018, directing the concerned Authorities to consider the representation of the Petitioner within a period of twelve months from the date of receipt of a copy of that order. It is admitted that in the meanwhile, the 5th Respondent had applied for building permission for the third floor and according to the Petitioner, the same was rejected by the 1st Respondent by the proceedings dated 05.07.2019.

5. The learned counsel for the 5th Respondent has produced before this Court, a copy of the GO.Ms.No.154 (Housing and Urban Development (UD4(3)) Department, dated 13.10.2020, by which, the State Government has delegated powers to the Local Bodies, except Chennai to grant planning permission to the residential buildings upto the total built of up area upto 10,000 sq.ft. and upto 8 dwelling units, not exceeding 12 meters in height upto stilt + 3 floors or ground + 2 floors.
6. The learned counsel for the 5th Respondent has also produced before this Court, a copy of the order of this Court, dated 26.03.2021, passed in a Writ Petition in WP.No.6413 of 2021, which was filed by the 5th Respondent herein for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the 5th Respondent therein, Executive Officer of the Town Panchayat, Thittakudi, Cuddalore District, dated 08.06.2020 and to direct the



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5th Respondent therein to regularise the constructions in the third floor of the building comprised in S.No.64/1A2B1, South Street, Thittakudi Township.

While disposing of the said Writ Petition filed by the 5th Respondent herein, this Court, taking note of the stand taken by the Government that they are reconsidering the issue, based on the said GO.Ms.No.154, dated 13.10.2020, since the Executive Officer concerned has sought for clarification of the said GO.Ms.No.150, dated 13.10.2020, has remitted the matter back to the 5th Respondent therein to consider afresh in accordance with law and further directed the 5th Respondent not to take any coercive steps as against the 5th Respondent till such time her representation is considered, in accordance with law.

7. This Court, in view of the GO.Ms.No.154, dated 13.10.2020 and the order of this Court passed in WP.No.6413 of 2021, dated 26.03.2021, is unable to grant any relief to the Petitioner herein. Hence, this Writ Petition is dismissed. However, the Petitioner is given liberty to approach the concerned authority for a hearing or appropriate action. No costs. Consequently, the connected MP is closed.

(S.S.S.R.J.) & (N.S.J.)
05.04.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No



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and
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To

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