



WEB COPY



W.P.No.5807 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2024

CORAM:

THE HON'BLE MR. JUSTICE S.S.SUNDAR

and

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.5807 of 2020
and WMP.No.6804 of 2020

K.R.Sheeja

... Petitioner

vs.

1.The Principal Secretary,
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat, Fort St.George,
Chennai.

2.The Director of Town and Country Planning,
opposite to LIC, Chengalvarayan Building,
Fourth Floor, 807, Anna Salai,
Chennai-600 002.

3.The Commissioner,
Coonoor Municipality, Coonur,
Nilgiris District.

4.The Member Secretary / Executive Authority,
Coonoor Local Planning Authority,
Coonoor, Nilgiris District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned proceedings issued by the 3rd respondent in



W.P.No.5807 of 2020

Aa.Ka.No.2/2007/F1 dated 24.02.2020 and quash the same and consequently, direct the 3rd respondent to consider the Revised Plan submitted by the petitioner herein.

For Petitioner : Mr.R.Nalliyappan
For Respondents : Mrs.S.Anitha,
Special Government Pleader for R1 & R2

Mr.P.Srinivas, Standing Counsel for R3

ORDER

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

The writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the third respondent dated 24.02.2020 and direct the third respondent to consider the revised plan submitted by the petitioner.

2. The petitioner purchased a property comprised in T.S.No.3, Coonoor Town, Nilgiris District, to an extent of 4 cents by way of a Sale Deed dated 06.03.2000, registered as Doc.No.386/2000 on the file of the Sub-Registrar Office, Coonoor. The petitioner constructed a superstructure in the year 2001 and though the petitioner has obtained planning permission for Ground + First Floor, it is admitted that the petitioner has put up Ground + Two Floors, without adherence to the building plan rules/regulations. In such



W.P.No.5807 of 2020

circumstances, the third respondent has initiated proceedings by order dated 21.12.2014 to demolish the superstructure and evict the property, since the entire superstructure is contrary to the building plan approval.

3. As against the order passed by the third respondent dated 21.12.2014, the petitioner preferred an appeal before the first respondent and the first respondent dismissed the appeal by order dated 03.09.2015. It is seen from the order of the first respondent that the violations pointed out by the third respondent are admitted and therefore, there is no ground to consider the revised plan in favour of the petitioner. Though a revision would lie as against the order of the Appellate Authority under Section 217L of the Tamil Nadu District Municipalities Act, the petitioner has allowed the order of the first respondent to become final. Therefore, in pursuance to the rejection order passed by the third respondent dated 21.12.2014 and the dismissal of the appeal by the first respondent dated 03.09.2015, the third respondent has now initiated proceedings under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 for locking and sealing of the premises. This action is a consequential order passed by the third respondent directing the petitioner to remove the unauthorised construction in terms of Sections 56



W.P.No.5807 of 2020

and 57 of the Tamil Nadu Town and Country Planning Act, 1971, against which the present writ petition has been filed.

4. Heard the learned counsel for the parties and perused the materials on record.

5. This Court finds no merit in the writ petition. First of all, the third respondent has passed the order for removal of unauthorized construction even in the year 2014, by order dated 21.12.2014 and the same was confirmed by the Government/first respondent by order dated 03.09.2015. Despite the Government rejecting the appeal filed by the petitioner way back in the year 2015, no revision has been filed all these years for the reasons best known to the petitioner and therefore, the consequential order/action should follow. The third respondent is well within his rights to pass the order directing the locking and sealing of the premises of the petitioner. The fact that the petitioner has put up construction in utter disregard to the building plan permission is seen from the order of the third respondent dated 21.12.2014, wherein the following violations are noted by the third respondent.



W.P.No.5807 of 2020

WEB COPY

Sl.No	Details	Required as per Master Plan T.P. Scheme	Required as per Hill Station Building Rule	As per Site	% of Violation
1	Zone as per Master Plan and land use	MUZ-7	Uses permitted	Office Building	Nil
2	Plot Extent	150 m ²	05 m ²	162 m ²	Nil
3	No. of Floor	G+1	G+1	G+2	Master Plan Violation 100%
4	Height of the Building	7m	7m	10.5m	M P Violation 100%
5	Roof of top floor	Slope	Slope	Flat	M P Violation 100%
6	Front Set Back	3 m	1.3 m	0.8 m	Master Plan Violation 73%
	Side Set Back	1.75	-	Nil	M P Violation 100%
	Side Set Back -2	1.75	-	Nil	M P Violation 100%
	Rear Set Back	1.75	-	Nil	M P Violation 100%
7	Open Space	1/2nd	1/4th	Nil	M P Violation 100%
8	Plot Coverage	50%	75%	100%	M P Violation 100%
9	Car Parking	-	34 m ²	Nil	M P Violation 100%

6. Though the second floor has been constructed without any building plan approval, the order of the Government / first respondent dated 03.09.2015 has been allowed to become final and the petitioner has filed the instant writ petition on the ground that the impugned proceedings of the third



W.P.No.5807 of 2020

respondent dated 24.02.2020 is contrary and violation of the principles of natural justice. It is contended by the petitioner that she has submitted a revised plan for approval. When the petitioner has not challenged the order passed by the Government/first respondent, under Section 217K of the District Municipalities Act. The petitioner's application for revised plan cannot be considered in the light of the admitted facts and therefore, the petitioner is not entitled to any relief, since the impugned order has been passed in accordance with law and the order of the Government / first respondent dated 03.09.2015 has become final.

7. This Court finds no merit in the writ petition and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

[S.S.S.R., J.][N.S., J.]
29.01.2024

Index : Yes / No
Internet : Yes / No
Jvm

To



W.P.No.5807 of 2020

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WEB COPY



W.P.No.5807 of 2020

N.SENTHILKUMAR, J.

Jvm

W.P.No.5807 of 2020

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