



WEB COPY



W.P.No.5612 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM:

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.5612 of 2020

A.Sagunthala

..

Petitioner

v.

1. The Commissioner
Edappadi Municipality
Edappadi, Salem District

2. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai 600 009
(R2 suo motu impleaded as per order dated
02.11.2023 in WP.5612/20)

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Approved K.A.No.36/2019/A2, dated 11.11.2019 and quash the same and consequently directing the respondents to regularize the petitioner's buildings situated at T.S.No.39/2, Door No.40B II A1, 40B II AII and 40B II in Ward No.F, Block No.25, Nainampatti Road Street at Edappadi Municipal Limit by receipt of necessary fee / charges.



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For Petitioner :: Mr.C.Prakasam
For Respondents :: Mr.L.P.Maurya for R1
Mr.M.Muthusamy
Government Advocate for R2

ORDER

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

This writ petition is filed for issuance of a writ of certiorarified mandamus to quash the impugned order dated 11.11.2019 passed by the Commissioner of Edappadi Municipality, Edappadi and to consequently direct the respondents to regularize the buildings situated at T.S.No.39/2, Door No.40B II A1, 40B II AII and 40B II in Ward No.F, Block No.25, Nainampatti Road Street at Edappadi Municipal Limit by receipt of necessary fee/charges.

2. The brief facts that are necessary for the disposal of the writ petition are as follows:

The petitioner purchased three buildings. The petitioner admits that the old structures were demolished and she constructed new buildings. Though the petitioner applied and obtained the building plan approval from



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the respondent Municipality on 16.09.2019 to construct the residential buildings, the petitioner admits that she had constructed the buildings in deviation of the approved plan and the same, even according to the petitioner, was informed to the first respondent. The first respondent, by the impugned order, directed the petitioner to bring down the structures in accordance with the approved plan or else the process of demolition would be carried out by the first respondent. Since the petitioner failed to bring down the structures in accordance with the approved plan, the earlier order passed by the Commissioner was confirmed by the order dated 20.11.2019. Challenging the impugned order, the above writ petition is filed.

3. Though there has been a reference in the affidavit filed in support of the petition that the petitioner submitted an application for regularization, it is now admitted by the counsel for the petitioner that the regularization application was submitted by the petitioner before the first respondent, who is not competent to consider the same. The learned counsel for the petitioner also stated that an appeal is preferred before the Government as against the order impugned in the writ petition.



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4. However, the learned Government Advocate appearing for the second respondent has no instructions regarding any appeal filed by the petitioner.

5. Though the petitioner states that the regularization application is pending, it is seen from the records that the regularization application has been filed before the first respondent, who is not the competent authority to consider the same under the scheme. In such circumstances, this Court is unable to find any merit in the writ petition. It is open to the petitioner to avail any other remedy available in law for regularization in accordance with the rules. With such liberty being preserved to the petitioner, this writ petition stands dismissed. In case the petitioner files an application before the competent authority for regularization of the buildings within 2 weeks from the date of receipt of this order with an undertaking to pay the fees and it is permissible for the authority to consider such application on merits, the demolition exercise may be kept in abeyance till such time the application filed by the petitioner is considered in accordance with law. Consequently, W.M.P.Nos.6567, 6568 of 2020, 9986, 33440 of 2023 are also dismissed.



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There shall be no order as to costs.

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Index : yes

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes

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SS

To

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Edappadi Municipality
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S.S.SUNDAR,J.

AND

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