



WEB COPY



WP.No. 7007 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR**  
and  
**THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

WP.No. 7007 of 2020  
and WMP.No.8358 of 2020

K Gopinath

...petitioner

Vs.

1. The Secretary to Government,  
Municipality Administration and Water Supply,  
Fort St. George,  
Chennai 600 009.
2. The Commissioner,  
Town and Country Planning,  
Mount Road,  
Chennai 600 002.
3. The Commissioner,  
Udhagamandalam Municipality,  
Ootacamund.

..respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records in notice dated 13/09/2019 A.E.Ka No.24/1993/S on the file of the 3rd respondent and quash the same as illegal, against law and against the principles of natural justice.



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For petitioner : Mr.A.Thiagarajan, Senior Counsel,  
for Mr.M.Nallathambi

For respondents  
for RR1 & 2 : Mr.R.Vigneshwaran, G.A.  
for R3 : Mr.P.Srinivas, Standing Counsel

### **ORDER**

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

This petition has been filed to quash the notice issued by the third respondent dated 13/09/2019 in A.E.Ka No.24/1993/S.

2. The petitioner's father purchased around 5 cents of land in Survey No.1684, 1685 in Udagamandalm Town and the property was sub divided by the Tahsildar on 22.01.1976. Though the petitioner's father got approval only for the ground plus first floor, he put up a small guest room in the second floor unauthorisedly. Further, as per the approved plan, the roof of the first floor should be with slope, however, the same has been violated.

3. When impugned notice was issued to rectify the deviations, the petitioner has approached this Court after making a representation to the respondent to cancel the said notice. From the impugned order, it is seen that the petitioner does not have any approved plan or permission to put up the



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second floor. The petitioner himself admits that the roof of the first floor is not in accordance with the sanctioned plan. Therefore, the Commissioner/third respondent is well within his right directed locking and sealing of the premises and in contemplation of locking and sealing, the petitioner was directed to remove his articles in the premises.

4. In reply to the impugned notice, the petitioner gave a representation stating that the building had already been exempted as the petitioner comes under special category, who enjoys certain privileges to put up construction. However, the petitioner has not referred to any Rule or Regulations which gives such privilege to the petitioner. Though it is stated that only a small guest room was put up in the second floor, this Court is unable to find any support from the Statutory or Regulations to regularise such a construction when the first floor's roof itself is not according to sanctioned plan.

5. It is not in dispute that show cause notice was issued to the petitioner's father long back. However, the petitioner and his father appear to have contested the proceedings only on the basis of building plan approval ignoring the fact that the building has been constructed not in accordance with the sanctioned plan.



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6. This Court is unable to find any merit in the grounds raised by the petitioner in this Writ Petition as the petitioner himself admits that the petitioner's father got planing approval only for the ground plus first floor and not for the second floor. Even the roof of the first floor is in violation of the approved plan.

7. Having regard to the stand taken by the petitioner himself in his reply, this Court finds that the petitioner's construction is unlawful and there is no reason to interfere with the order passed by the second respondent. Since the deviation is admitted and the third respondent is the competent authority to pass the impugned order, this Court finds that there is no merit in the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.J.,) (N.S.J.,)  
12.02.2024

Index : Yes / No  
Speaking order: Yes/No  
pvs

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