



WEB COPY



W.P.No.38931 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.38931 of 2016
and
W.M.P.No. 33347 of 2016

Sudha Rajendran

.... Petitioner

Vs

The Commissioner,
Edappadi Municipality,
Edappadi,
Salem District.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 23.06.2016 made in Na.Ka.No.23/2016/A2 passed by the respondent, quash the same and consequently direct the respondent to grant permission to the building constructed over an extent of 1000 sq.ft. in Old S.F.No.508/1, T.S.No.36, Avaniperur Melmugham Village, Edappadi Taluk, Salem District under the Tamil Nadu District Municipalities Act, 1920.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.N.Naveen Kumar
Government Advocate



W.P.No.38931 of 2016

the petitioner had constructed as against the building Rules 1(1), 11(2), 11(4), 13(1), 13(2), 14(1), 14(3) and 14(4) of the Tamil Nadu Buildings Rules.

4. The learned counsel appearing for the petitioner pointed out that the construction put up by the petitioner is a commercial in nature. Whereas, the Rules allegedly violated by the petitioner are pertaining to residents. Therefore, those Rules are not applicable to the petitioner's building. That apart in order to put up the Scheme Road as per the Detailed Development Plan No.2, so far no land has been acquired for the detailed development plan of the year 2002. As per Section 38 of the Town and Country Planning Act, within a period of three years or by extended period of five years, they ought to have acquired the land for formation of Scheme Road. However, so far no acquisition was made and as such, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, which deems the release of property in the event of not acquiring within the stipulated time. Therefore, the order impugned in this writ petition cannot be sustained and it is liable to be quashed.



W.P.No.38931 of 2016

5. Accordingly, the order passed by the respondent dated 23.06.2016, is hereby quashed. The petitioner is directed to submit fresh application for approval of construction to an extent of 1000 sq.ft. in S.F.No.508/1, T.S.No.36, admeasuring 5341 sq.ft, situated at Avaniperur Melmugham Village, Edappadi Taluk, Salem District, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the respondent is directed to consider the same and pass orders, if otherwise to comply the other conditions, within a period of two weeks thereafter.

6. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

02.09.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
Lpp

To

The Commissioner,
Edappadi Municipality,
Edappadi,
Salem District.



WEB COPY



W.P.No.38931 of 2016

G.K.ILANTHIRAIYAN, J.

Lpp

W.P.No.38931 of 2016

02.09.2024