



WEB COPY



W.P.No.16033 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.16033 of 2024

1.S.Karun

2.A.Revathi

.. Petitioners

Vs

1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore – 641001.

2.The Assistant Town Planning Officer,
Coimbatore North,
Coimbatore – 641 001.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorari to call for the records pertaining to the notice dated 30.05.2024 issued under Section 136 of Tamil Nadu Urban and Local Bodies Act, 1998 by the second respondent and quash the same as arbitrary and illegal.

For Petitioners

: Mr.P.Tamilvel

For R1

: Mr.Najeeb Usman Khan,
Standing Counsel

For R2

: Mr.V.Manoharan, AGP



W.P.No.16033 of 2024

WEB COPY

ORDER

The writ petition has been filed challenging the notice dated 30.05.2024 issued by the second respondent under Section 136 of the Tamil Nadu Urban and Local Bodies Act, 1998 (in short “the Act”), in and by which, the first petitioner was directed to demolish the building situated in S.No.30/1A, Door No.1A, Parasakthi Nagar, Ganapathi, Coimbatore-6.

2. The first petitioner is the son of the second petitioner. The above said property was originally belonged to the first petitioner's grandfather. The said property was subsequently settled in favour of the first petitioner's father, who, later on, settled half of the property in favour of his wife/second petitioner and other half share in favour of a third party. The first petitioner's father after obtaining planning permission dated 27.12.1996 from the first respondent constructed the building in question. The front portion of the house has been converted into 4 shops and the same were let out for rent. In fact, for conversion of shops, the first petitioner's father paid penalty towards property tax, house tax and commercial tax. While being so, the adjacent land owner one



W.P.No.16033 of 2024

Mr.T.Sivakumar and Banupriya started construction in their property by violating approved plan and this was questioned by the first petitioner's father.

3. That apart, his father also filed a writ petition in W.P.No.25981 of 2021 for a direction to the first respondent to demolish the illegal construction put up by his neighbors. In order to wreck vengeance of the same, a false complaint was lodged against the first petitioner's father in Cr.No.977 of 2021 and thereafter, his father was remanded in judicial custody. In the writ petition filed by his father, this Court directed the respondents to consider the representation submitted by his father and then to take appropriate action. Instead of taking action against unauthorized construction put up by his neighbors, now, the second respondent issued notice under Section 136 of the Act directing the petitioners to remove entire building constructed by the first petitioner's father.

4. Learned counsel for the petitioners would submit that instead of taking action against the petitioners' neighbors, the second respondent issued impugned notice on the first petitioner to demolish the building



W.P.No.16033 of 2024

constructed by the first petitioner's father. The first petitioner is not the owner of the building. However, as per the settlement deed, the second petitioner, mother of the first petitioner, is the owner of the building in question, but, she was not served with any notice.

5. Admittedly, the petitioners are son and mother and the building in question was owned by the first petitioner's father, who, later-on, bequeathed the same in favour of his wife/second petitioner. But, admittedly, all these persons are residing in the same house. Therefore, though notice was issued in the name of the first petitioner, the second petitioner, mother of the first petitioner, had knowledge about the notice, as they are all residing in the same house.

6. On perusal of the planning permission granted in favour of the first petitioner's father, it is revealed that the first petitioner's father obtained planning permission on 27.12.1996 only for ground floor. A perusal of the photographs produced by the petitioners would show that the petitioners constructed a house not only in the ground floor, but, also in the first floor as well. Therefore, it is a clear violation of the planning permission issued by the first respondent.



W.P.No.16033 of 2024

WEB COPY

7. That apart, after the impugned notice, the first respondent issued another notice dated 06.08.2024 directing the petitioners to appear for enquiry to be held on 12.08.2024, along with relevant documents, viz., building approval, TSLR patta and other documents, to prove their ownership. However, they did not appear before the first respondent for enquiry on 12.08.2024. Although the petitioners were given opportunity to put-forth their case, they failed to make use of the same. Therefore, this Court does not find any infirmity or illegality in the impugned notice issued by the second respondent.

8. At this juncture, learned counsel for the petitioners sought for reasonable time to remove unauthorized construction put up by them in the first floor of the building. Considering the said request, the petitioners are directed to remove unauthorized construction put up by them in the first floor of the building in question within a period of two months from today. Insofar as dilapidated condition of the building, the respondents are directed to engage its Engineer to verify structural stability of the building belonging to the petitioners and also their neighbors, and on filing of the report by the Engineer, the respondents



W.P.No.16033 of 2024

shall pass appropriate orders in accordance with law.

WEB COPY

9. In fine, for the reasons stated above, the writ petition stands dismissed. No Costs. Consequently, W.M.P.No.17528 of 2024 is closed.

05.09.2024

rkm

Index:yes/no

Neutral Citation: yes/no



W.P.No.16033 of 2024

WEB COPY To

- 1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore – 641001.
- 2.The Assistant Town Planning Officer,
Coimbatore North,
Coimbatore – 641 001.

G.K.ILANTHIRAIYAN, J.

rkm



WEB COPY



W.P.No.16033 of 2024

W.P.No.16033 of
2024

05.09.2024