



WEB COPY



W.P.No.16130 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM:

THE HON'BLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16130 of 2024

D.Vimala

... Petitioner

Vs.

1.The Director,
Directorate of Municipal Administration,
No.75, Urban Administrative Building,
Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai 600 028.

2.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001.

3.The Director,
Directorate of Town & Country Planning,
C&E Market Road,
Koyambedu, Chennai 600 107.

4.The Member Secretary,
Coimbatore Local Planning Authority,
FCI Road, Gandhi Maa Nagar,
Ganapathy, Coimbatore 641 001.

...

Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to consider the appeal filed thereunder before the first respondent on 07.03.2024 and to direct the second



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respondent to issue planning permission and building permit to construct the “old age home” as per the technical scrutiny, ref.no.SX1BRYRO, expeditiously where the application is filed through Single Window web portal and which has been forwarded and where DTCP is also part of the agency of nature of writ.

For Petitioner : Mr.T.Sivaganansambandan

For Respondents : Dr.T.Seenivasan,
Spl.Govt. Pleader for R1
Mr.Najeeb Usmeen Khan,
Standing Counsel for R2
Mr.M.Venkateswaran,
Spl.Govt. Pleader for R3 & R4

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to consider the appeal filed thereunder before the first respondent on 07.03.2024 and to direct the second respondent to issue planning permission and building permit to construct the “old age home” as per the technical scrutiny, ref.no.SX1BRYRO, expeditiously where the application is filed through Single Window web portal and which has been forwarded and where DTCP is also part of the agency of nature of writ.

2. The case of the petitioner is that the petitioner made an application as per Section 49 of the Town and Country Planning Act, 1971, for planning



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permission and building permit to construct a residential building where it accommodates the petitioner and other senior citizens. It was rejected by the Coimbatore City Municipal Corporation and the rejection order was not communicated to the petitioner. She obtained the same through Right to Information application. According to the petitioner, the rejection order is arbitrary and erroneous. Subsequently, an appeal has been filed by the petitioner before the first respondent on 07.03.2024 under Section 133(10) of the Tamil Nadu Local Bodies (Amendment) Act. Since the appeal is not considered by the first respondent, the petitioner is before this Court.

3. The second respondent filed his counter and the learned Standing Counsel for the second respondent submitted that the petitioner applied through online for construction of old age home and commercial building measuring with an extent of more than 2000 Sq.ft. If the building is more than 2000 Sq.ft under commercial category, the second respondent has no power to give approval and on that ground alone, the online application of the petitioner was rejected with a direction to approach the competent person, viz., the third and fourth respondents herein. He further submitted that as per G.O.Ms.No.265, Housing and Urban Development (UD4) Department, dated 21.12.2022, the petitioner cannot construct a building



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under residential category and the old age home comes under the commercial category. Hence, he prayed for dismissal of this Writ Petition.

4. Heard the learned counsel for the petitioner and the learned standing counsel for the second respondent and perused the materials available on record.

5. It is seen that the competent authority for considering the claim of the petitioner is the third and fourth respondents. Therefore, without expressing any opinion on the merits of the case, this Court is inclined to direct the petitioner to give a fresh representation to the third and fourth respondents seeking permission to construct a commercial building. On receipt of such representation, the third and fourth respondents are directed to consider the same and pass appropriate orders within a period of twelve weeks from the date of receipt of such representation.

6. In the result, this Writ Petition is disposed of. No costs.

Index: Yes/No
Speaking / Non-speaking order
gsk

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V.BHAVANI SUBBAROYAN J.

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