



WEB COPY



W.P.No.19670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM :

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

W.P.No.19670 of 2023

Mrs.S.Syed Rabith .. Petitioner

v.

1. The District Collector
Chengalpattu District
Chengalpattu 600 301
2. The Commissioner
St.Thomas Mount Panchayat Union
Chitalapakkam
Chennai 600 064
3. The President
Vengaivasal Panchayat
Chennai 600 126
4. Ms.Janani .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the entire records pertaining to Na.Ka.No.1040/2023/A4 dated 27.03.2023 from the file of the 2nd respondent and quash the same.



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For Petitioner :: Mr.S.Jaganathan
For Respondents :: Mr.M.R.Gokulkrishnan
Additional Government Pleader
for R1
Mr.P.Ganesan
Additional Government Pleader
for R2 & R3
Mr.S.Balasubramaniam for R4

ORDER

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

This writ petition is filed for issuance of a writ of certiorari to call for the records pertaining to the proceedings in Na.Ka.No.1040/2023/A4 dated 27.03.2023 issued by the 2nd respondent and to quash the same.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:-

(a) The petitioner appears to have purchased the property measuring an extent of 1413 sq.ft., comprised in Survey Nos.246/18 and 246/19 in Vengaivasal Village, Tambaram Firka in a public auction on 24.06.2022. Strangely, the petitioner received the notice dated 17.02.2022 only on



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01.03.2023 from the third respondent as if the petitioner had put up construction in deviation of the approved plan. It is the case of petitioner that the second respondent, without issuing the statutory notice in terms of Section 56(1)(d) of the Tamil Nadu Town and Country Planning Act, 1971, has passed the impugned order dated 27.03.2023 directing the petitioner to stop the construction activity until further orders. The impugned order does not even refer to any show cause notice being issued to the petitioner. Therefore, it is contended by the petitioner that the impugned order is liable to be set aside on the short ground of violation of the principles of natural justice.

3. A detailed counter affidavit has been filed by the second respondent. It is stated by the second respondent that though the building permission granted to the erstwhile owner got expired, the petitioner has put up the construction without making a renewal application, in terms of Rule 30 of the Tamil Nadu Panchayats Building Rules, 1977. Therefore, the impugned order has been issued to stop the illegal construction put up by the petitioner until further orders.



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4. It appears that the erstwhile owner had applied for building plan permission. Though the planning permission was granted, the counsel appearing for the local body states that the construction was not completed within the time prescribed and there was no fresh application for renewal. It is at that stage the petitioner appears to have purchased the property. However, the petitioner was not allowed to complete the construction, as there was no renewal of application for completing the construction. In this context, Rule 30 of the Tamil Nadu Panchayats Building Rules, 1977 is extracted below:-

“30. Lapse of permission:

If the construction or reconstruction of any building is not completed within the period specified, the permission shall lapse and a fresh application shall be made before the work is continued.”

5. In the light of the above and considering the facts and circumstances of the case, this Court is inclined to pass the following order:-

(i) The impugned order dated 27.03.2023 is quashed.



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(ii) Since the petitioner herself has admitted that the construction is not yet completed, the petitioner is directed to submit a fresh application for building plan approval/permission and the second respondent shall consider the application and pass an order on merits and in accordance with law within a period of three weeks from the date of receipt of fresh application that may be filed by the petitioner in physical mode before the second respondent.

The writ petition stands allowed. Consequently, W.M.P.Nos.18934 & 18935 of 2023 are closed. No order as to costs.

Index : yes/no

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

(N.S.,J.)

Neutral citation : yes/no

18.04.2024

ss

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