



W.P.No.33602 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM :

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

W.P.No.33602 of 2019

A.George Armstrong .. Petitioner

-VS-

1. The Secretary to Government
Municipal Administration and
Water Supply (MA.1) Department
Secretariat, Fort St.George
Chennai 600 009

2. The Commissioner
Udhagamandalam Municipality
Udhagamandalam .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the proceedings bearing Govt Letter (Pa) En 369/Na Nee1/2017 dated 15.09.2017, on the file of the 1st respondent and quash the same as illegal and without jurisdiction.



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For Petitioner :: Ms.Gopika Nambiar
for Mr.Govind Chandrasekhar

For Respondents :: Mrs.V.Yamuna Devi
Special Government Pleader for R1
Mr.P.Srinivas
Standing Counsel for R2

ORDER

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

This writ petition is filed challenging the order passed by the first respondent dismissing the review petition said to have been filed by the petitioner's vendor by name Mrs.D.Saraswathy.

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

(a) One Mrs.D.Saraswathy had purchased an extent of 3 cents of land in R.S.No.4515/1 and put up construction without getting any planning permission from the second respondent Municipality. The superstructure along with the land was also sold by the original owner by name Mrs.D.Saraswathy in favour of the petitioner, by virtue of the registered sale deed dated 14.11.2011.



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(b) It appears that the petitioner's vendor, without even getting re-classification of the land use, appears to have developed the land by putting up construction measuring an extent of 836 sq.ft. Since the building is unauthorized, the second respondent appears to have issued a notice under Section 217(j) of the Tamil Nadu District Municipalities Act, 1920.

(c) Meanwhile, the petitioner's vendor applied for building approval for the construction put up by her on 1.10.2009 and the same was refused by the second respondent. Against the order of second respondent rejecting the application filed by the petitioner's vendor, the petitioner's vendor had filed a review petition before the Government on 28.04.2010. Since the petitioner had purchased the property, after finding that the person who moved the review is no more, the first respondent had rejected the review petition on the ground that the property purchased by the said Mrs.D.Saraswathy comes under the category of 'agricultural land', where the residential buildings are prohibited. Referring to the fact that the construction is unauthorized, the petitioner was issued with the impugned communication dated 15.09.2017 indicating that the petitioner, who purchased the property after the order for removal of unauthorized



construction, cannot maintain the review. Hence, this writ petition.

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3. This Court is unable to find any irregularity in the order passed by the first respondent rejecting the review petition against the petitioner. The petitioner has purchased the unauthorized building developed by a stranger. It is admitted by the petitioner himself that the petitioner's vendor had not obtained the building plan permission for construction of the building. When the building is totally unauthorized, as the same has been constructed in a zone which is classified as 'agricultural land', the only remedy available to the petitioner is to either move an application before the authority concerned for regularization or for fresh plan approval if it is permissible in accordance with law. Hence, this Court finds it appropriate to dispose of this writ petition with the following directions:-

- (i) The writ petition challenging the order passed by the first respondent in the review petition stated to have been filed by the petitioner's vendor, shall stand dismissed.
- (ii) However, despite the review petition having been dismissed by the first respondent against the petitioner, the second respondent is directed to consider the application that may be filed by the petitioner



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either for fresh building plan approval or for regularization as may be permissible in accordance with the development rules, within a period of two weeks from the date of receipt of a copy of this order. Till such time order is passed on the application that is submitted by the petitioner pursuant to the direction of this Court either for regularization or for fresh building permission, the second respondent shall not take any coercive action against the petitioner.

Consequently, W.M.P.Nos.34069 & 34070 of 2019 are closed. No order as to costs.

Index : yes/no

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

(N.S.,J.)

Neutral citation : yes/no

05.03.2024

ss

To

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SS

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