



W.P.(MD) No.12398 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD)No.12398 of 2024

and

W.M.P.(MD)No.10979 of 2024

D.Chandramohan

... Petitioner

-Vs-

The Commissioner,
Trichirappalli Corporation,
Trichy-620 021.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records of the impugned notice issued by the respondent in Ka.V.N:086/CP/21-22/075758 Ka.A.N:F1/749/2022, dated 30.05.2024 and quash the same and consequently, to direct the respondent to consider the revised plan submitted by the petitioner dated 22.04.2024.

For Petitioner : Mr.C.Vakeeswaran

For Respondent : Mr.K.R.Kishore Ram,
for M/s.R.B.Law Associates



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ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

The prayer sought for in this Writ Petition is to call for the entire records of the impugned notice issued by the respondent in Ka.V.N:086/CP/21-22/075758 Ka.A.N:F1/749/2022, dated 30.05.2024 and quash the same and consequently, to direct the respondent to consider the revised plan submitted by the petitioner dated 22.04.2024.

2.With regard to the building, that has been constructed by the petitioner, for which, already plan approval has been granted by the respondent Corporation only as a residential building, since it has been converted into commercial one, the petitioner had given an application for revised building approval under Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998, (hereinafter referred to as 'the said Act').

3.Having receipt of the said revised application submitted by the petitioner, now, final notice had been issued by the respondent Corporation under Section 136(4) of the said act.



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4.We have gone through the provisions of Sections 135 and 136 of the said Act.

5.Section 136 deals with only power of Municipality or Local Bodies to order for removal of dangerous building or trees etc.. However, insofar as the power vested with the Commissioner of Municipal Corporation and Municipalities under Section 135 of the said Act is concerned, if any construction or reconstruction or modification of any building is commenced or completed without any permission duly granted by the Commissioner or any appellate authority, how to deal with such kind of construction, reconstruction, modification and deviation has been given, where a notice can be issued under Sub Section (1) of Section 135 of the said Act. On the issue of such notice, the owner or occupier or the person of the building shall stop the construction forthwith and apply to the Commissioner for regularization of the construction.

6.Under Sub Section (3) of Section 135 of the said Act, when such an application is so made for regularization, the Commissioner may, after scrutiny of such application in the prescribed form received together with any plan and after satisfying himself that the construction work is in accordance with the rules, grant



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the permission after collecting necessary fee and the penalty prescribed.

Otherwise under Sub Section (4) of Section 135 of the said Act, the Commissioner, on scrutiny of such application, is of the opinion that the construction work, which is in progress or the construction, which has been completed or the construction work as proposed in the plan is in deviation of the provision of this Act, or the rules framed thereunder, may issue another notice to the persons concerned to cause necessary modification by way of removing any existing structure or by making necessary alterations within the period specified therein.

7.Proviso to Sub Section (4) of Section 135 of the said Act states that the Commissioner also may, on receipt of an application after inspection of the work, grant an extension of time not exceeding the period prescribed, if he satisfies that the applicant had sufficient cause for not carrying out the orders of the Commissioner within the said period.

8.Thereafter, under Sub Section (5) of Section 135 of the said Act, if the orders of the Commissioner have been complied within the period or the extended period, the Commissioner may, after satisfying himself, collect the necessary fee together with penalty prescribed and grant necessary building permission.



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9. Thereafter, under Sub Section (6) of Section 135 of the said Act, if no action has been taken in pursuance of any notice issued by the Commissioner under Sub Section (4) for removal or alteration or modification to any unauthorised construction within the time limit referred to in the said Sub Section, the Commissioner may lock and seal the building or remove or demolish unauthorised construction. The cost of expenditure incurred by the Municipality towards such removal or demolition shall be recovered from the person concerned as arrears of land revenue.

10. Therefore, there has been exhaustive procedure contemplated under Section 135 of the said Act. Accordingly, when an application has been made under Section 135(1) of the said Act as claimed by the petitioner, the same shall be considered and dealt with by the respondent Corporation under various Sub Sections to Section 135 of the said Act. However, without exhausting these procedures, since the present impugned notice dated 30.05.2024 has been issued by the respondent Corporation, invoking Sub Section (4) of Section 136 of the said Act, we deem it appropriate to set aside this notice and remit the matter back to the respondent Corporation for reconsideration.



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11.Resultantly, the impugned order dated 30.05.2024 is set aside and the matter is remitted back to the respondent Corporation for reconsideration. While reconsidering the same, the procedures, as contemplated under the provisions of the said Act as discussed hereinabove, shall be scrupulously followed and ultimate decision shall be arrived at by the respondent Corporation in accordance with law.

12.With these observations, this Writ Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
13.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

The Commissioner,
Trichirappalli Corporation,
Trichy-620 021.



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R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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