



W.P.(MD)No.13668 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13668 of 2015
and M.P.(MD)No.1 of 2015

N.Dillibai

... Petitioner

versus

1. The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai – 600 002.

2. The Member Secretary,
Local Planning Authority,
Town and Country Planning,
No.51, West Car Street,
Thoothukudi – 628 002.

3. The Commissioner,
Corporation of Thoothukudi,
Thoothukudi.

4. The Zonal Officer,
Thoothukudi Corporation South Zone Office,
(Originally Muthiahpuram Panchayat),
J.S.Nagar, Muthiahpuram,
Thoothukudi.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the 2nd respondent's notice in Na.Ka.No. 741/14/Thoo.Uoo.Thi.Ku Dated 25.06.2015 and quash the same and direct the 2nd respondent to accept the building plan approved on 28.03.2003 by the then Muthiahpuram Panchayat.

For Petitioner : Mr.C.Dhanaseelan
For R1 and R2 : Mr.A.Baskaran,
Additional Government Pleader
For R3 : Mr.N.Anand Kumar,
Standing Counsel

ORDER

This writ petition has been filed challenging the notice dated 25.06.2015 issued by the second respondent under Sections 56 and 57 of the Town and Country Planning Act, 1971.

2. The petitioner and her husband are the owners of the property in Door No.2/90-1, 2, 3 at Muthiahpuram, within the limits of Thoothukudi Corporation, in Survey No.51/2A3A and 51/2A3B of Mullakadu Village. The petitioner claims that in the said property, a



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building was constructed in the year 2003-2004 and the said building is being used as a godown for storage of onions and cereals, etc.

According to the petitioner, the said building was constructed after getting necessary permission from the President of Muthiahpuram Panchayat on 28.03.2003. This area is now brought under the limit of Thoothukudi Municipal Corporation from the month of October 2011. Thereafter, the impugned notice dated 25.06.2015 has been issued by the second respondent stating that the petitioner has not obtained any permission under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971 and therefore, the property should be restored to its original condition within 30 days, failing which, the building will be sealed and closed.

3. The learned counsel for the petitioner submits that this building was constructed in the year 2003 after obtaining permission from the President of Muthiahpuram Panchayat and therefore, the second respondent has no jurisdiction to issue the impugned notice. He



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further submits that the building has been constructed after getting building plan approval from the competent authority. At the time of construction, the area was under the limit of Muthiahpuram Panchayat and therefore, the President of Muthiahpuram Panchayat is having every right to approve the building plan. The learned counsel further submits that as per Section 2(3) of the Tamil Nadu Town and Country Planning Act 1971, the President of the respective Panchayat is the Local Planning Authority. Since the building plan approval was obtained lawfully from the competent authority, it cannot be presumed that the same has been issued without any authority.

4. The learned Additional Government Pleader submits that the area, in which the petitioner has constructed the building at Survey No. 51/2A3A and 51/2A3B, comes under the planning area. The Mullakadu Village is also declared as Planning area vide G.O.Ms.No. 71, Housing and Urban Development (UD4.2) Department dated 10.02.2000. In view of the same, the petitioner ought to have obtained



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permission from the Tuticorin Local Planning Authority under Section 49 of the Town and Country Planning Act, 1971. Instead, the petitioner has put up the construction by obtaining permission from the President of Muthiahpuram under the Panchayat Act. After the publication of the master plan, the Panchayat President is not competent to grant any permission under the Panchayat Act.

5. The learned Additional Government Pleader further submits that the second respondent has issued a notice on 20.02.2014, however, the petitioner has not responded to the notice. Therefore, the impugned notice has been issued in Form II on 25.06.2015. The learned Additional Government Pleader has also relied on the petitioner's letter dated 17.07.2015, wherein, she states that she is ready to pay the required fee, however, she has not approached the respondents for getting permission under Section 49 of the Town and Country Planning Act. Therefore, the impugned notice has been issued in order to provide an opportunity to the petitioner to regularize the building under



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Section 49 of the Town and Country Planning Act.

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6. This Court considered the rival submissions made.

7. The petitioner has constructed a building at Mullakadu Village, Tuticorin, in the year 2003. The Mullakadu Village was already declared as planning area, as per the master plan approved by the Government vide G.O.Ms.No.71, dated 10.02.2000. Therefore, this Court is not inclined to entertain this writ petition.

8. Accordingly, the writ petition is dismissed with liberty to the petitioner to regularize the building under the Town and Country Planning Act, 1971. No costs. Consequently, connected miscellaneous petition is closed.

20.02.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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