IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. No.1 of 2015 and M.P. No.1 of 2015

Vijay K. Shah ... Petitioner

Vs.

1 Chennai Metropolitan Development Authority
represented by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

2 The Government of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Fort St. George, Chennai 600 009 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent herein to remove and lock and seal forthwith to enable the petitioner to rectify the deviations in the constructions put up at Old No.14, New No.29, Armenian Street, Chennai 600 001, on the basis of the petitioner's representation.

For petitioner Mr. R. Mohan

For R1 Mr. N. Sampath

For R2 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

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With the consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the first respondent herein to remove the lock and seal forthwith, to enable the petitioner to rectify the deviations in the constructions put up at Old No.14, New No.29, Armenian Street, Chennai 600 001, on the basis of the his representation.

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3 The petitioner purchased the property situated at Old No.14, New No.29, Armenian Street, Chennai 600 001. After purchase, he demolished the said building and put up a new building in the said property for the purpose of carrying on business and also for letting out to third parties for commercial purpose. For the purpose of the said construction, he had also obtained planning permission from Corporation of Chennai. However, for better utilisation of the property, he raised additional floors over and above the original sanctioned floor area. The first respondent, having found some deviations, issued locking and sealing notice dated 11.08.2011 and locked and sealed the building on 25.11.2011. Challenging the same, the petitioner filed W.P. No.29390 of 2011, besides preferring an appeal against the said locking and sealing notice to the second respondent. The said writ petition was disposed of by this Court by order dated 22.12.2011, by directing the petitioner to pursue the appeal. By the said order, the second respondent herein was also directed to dispose of the petitioner's appeal expeditiously. Pursuant to the order passed by this Court in the aforesaid writ petition, the second respondent, vide letter dated 10.12.2013, directed the first respondent to de-seal the building in question to enable the petitioner to carry out the rectifications. Yet, the first respondent has not de-sealed the building. The petitioner appears to have submitted a representation dated 07.10.2014 to the first respondent seeking to remove the lock and seal to enable him to rectify the deviations and the same is pending consideration. Hence, the instant writ petition has been filed seeking a mandamus to the first respondent to remove the lock and seal forthwith, to enable the petitioner to rectify the deviations in the subject property.

4 The learned counsel for the petitioner submitted that the petitioner is ready and willing to demolish the unauthorized portions for the purpose of restoring the building to its original position in terms of the planning permission granted by the Corporation.

5 Considering the facts and circumstances of the case, the petitioner is given liberty to make an application before the first respondent with a request to permit him to demolish the unauthorised structure. In case, any such application is given, the first respondent is directed to grant permission for the purpose of demolishing the unauthorised structure. The petitioner is granted eight weeks' time to rectify the deviations. After the petitioner demolishes the unauthorised structure, the first respondent shall inspect the building once again to confirm as to whether the unauthorised structure has been removed. If it is found that the entire unauthorised structure is removed, the first respondent shall process the matter further. In case, the unauthorized structure is not removed within the time given, the first respondent is permitted to take further action, in accordance with law.

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6 The writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

1 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

2 The Secretary
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009.

1 cc to Mr.R. Mohan ,Advocate, SR.No.204/15
1 cc to Government Pleader,Sr.No366/15
1 cc to Mr. C.Johnson,Advocate, SR.No.482/15

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