

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2015

CORAM:

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

W.P. No.23011 of 2015

A. Senthil

Petitioner

Vs.

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

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent to consider and pass orders on the petitioner's representation dated 20.07.2015 for removal of the lock and seal affixed on 17.07.2015 by the respondent for the premises at New No.114, Old No.276, Thambu Street, Chennai - 1 in R.S. No.2915, Block No.27 of V.O.C. Nagar, Village, so as to enable the petitioner to rectify and remove the deviation in the said building and bring the same in conformity with the sanctioned plan and of the applicable development regulations within a reasonable time.

For petitioner Mr. D.S. Rajasekaran

For respondent Mr. C. Johnson, Standing Counsel

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Mr.C. Johnson, learned Standing Counsel, accepts notice for the respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2. The case of the petitioner is that, as the owner of the property at New No.114, Old No.276, Thambu Street, Chennai - 1, he applied and obtained sanction for construction of stilt + 2 floors of residential building from the Chennai Corporation, after demolishing the old structure, with prior approval for the same. The petitioner completed construction as early as in the year 2012. While putting up the said construction, the petitioner had provided certain public utility rooms like transformer, generator and watchman room in the

stilt floor area, as permissible under the Development Regulations. Still, the respondent issued a stop-work notice dated 18th February 2015. In response, the petitioner submitted a reply on 19th February 2015. Not satisfied with the petitioner's reply, the respondent issued a locking, sealing and demolition notice dated 1st April 2015. Pursuant thereto, the petitioner submitted a representation dated 22nd May 2015, requesting three months' time to rectify and remove the deviations. The respondent, rejecting the said representation, proceeded to lock and seal the premises on 17.07.2015, without any notice to any of the occupiers in the premises. The petitioner made a representation dated 20th July 2015 requesting the respondent to de-seal the premises, thereby enabling him to carry out the rectifications insofar as deviations and also to remove the additions put up in the building, over and above the approved plan. Since no orders have been passed on the said representation, the present writ petition has been filed for the relief, as aforesaid.

3. The learned counsel for the petitioner submits that the petitioner is ready and willing to demolish the unauthorised portions for the purpose of restoring the building to its original position in terms of the planning permission granted by the authority concerned.

4. Considering the facts and circumstances of the case, the petitioner is given liberty to make an application before the respondent with a request to permit him to demolish the unauthorised structure. In case, any such application is given, the respondent is directed to grant permission for the purpose of demolishing the unauthorised structure. The petitioner is granted four weeks' time to rectify the deviations. After the petitioner demolishes the unauthorised structure, the 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 respondent may not process the matter further. In case, the unauthorised structure is not removed within the time granted, the respondent is permitted to take further action, in accordance with law.

5. This writ petition is disposed of with the above directions and observation. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

cad

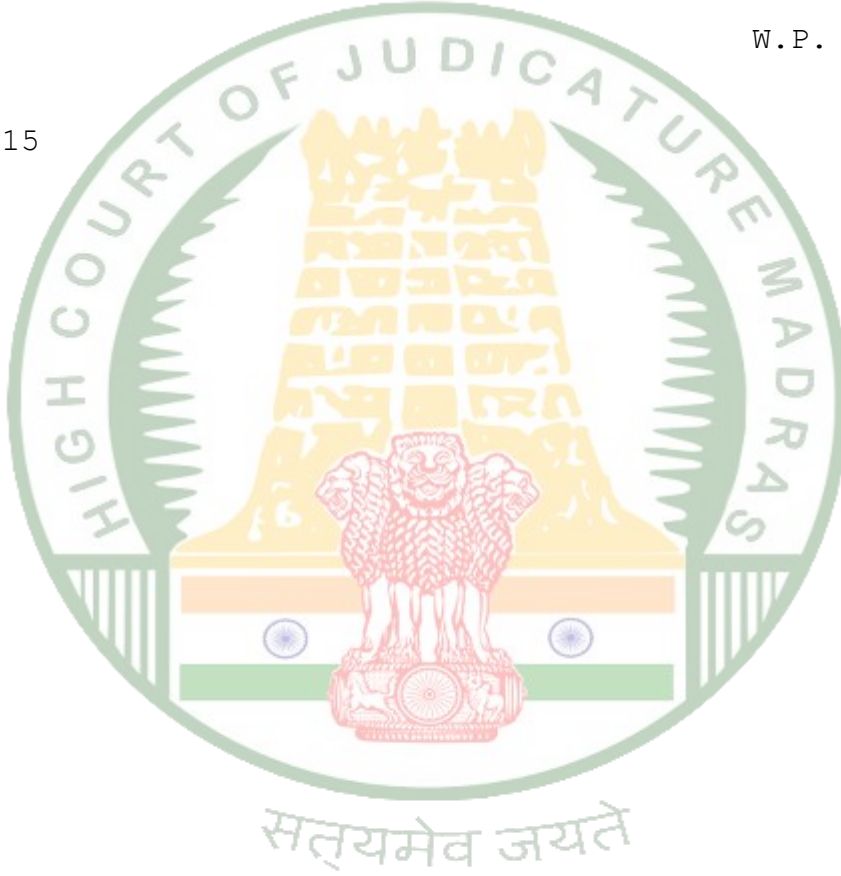
To

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

+1 cc to Mr.C.Johnson Advocate sr.38959
+1 cc to Mr.D.S.Rajasekaran Advocate sr.39198

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