

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2015

C O R A M

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

W.P. Nos.7575 of 2012, 28745 and 29124 of 2012
and
M.P.Nos.1,1 and 1 of 2012

M./s.Prasanth Fertility Research Centre Pvt. Ltd.,
represented by its Director Dr.Geetha Haripriya,
76 & 77, Harrington Road, Chetpet,
Chennai-600 031. .. Petitioner in
all writ petitions

Vs

- 1.The Chennai Metropolitan Development Authority,
represented by its Member Secretary,
Thalamuthu Natesan Building,
Egmore, Chennai-8.
- 2.N.Raghavalu Naidu
(R-2 impleaded as per order dated 11.12.2012
in M.P.No.2/2012 in WP No.7575 of 2012) .. Respondents in
W.P.No.7575 of 2012
- 1.The Secretary to Government of Tamil Nadu,
Housing and Urban Development (UDI) Department,
Secretariat, Chennai-9.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi-Iwrin Road, Madras.
- 3.N.Ragavulu Naidu
(R-3 impleaded as per order dated 21.7.2015
in M.P.Nos.1 and 1 of 2015) .. Respondents in
W.P.Nos.28745 and
29124 of 2012

W.P.No.7575 of 2012 has been preferred under Article 226 of the
Constitution of India praying for the issue of a writ of certiorari
to call for records in proceedings of the respondent in Na.Ka. Letter
No.ECI/6573/2004 dated 29.02.2012 and quash the same as illegal,
incompetent and unconstitutional.

W.P.Nos.28745 and 29124 of 2012 have been preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records in letter No.7432/UDI/2012-02 and Letter No.7431/UDI/2012-2 dated 15.09.2012 on the file of the first respondent and quash the same as illegal and unconstitutional and further direct the first respondent to consider the appeal dated 02.03.2012 in accordance with law, within the time specified.

For petitioners : Mr.V.Raghavachari in all writ petitions

For Respondents : Mr.C.Johnson for R-1 in W.P.No.7575 of 2012

Mr.V.Prakash, SC
for M/s.K.Sudalaikannu for R-2
in W.P.No.7575 of 2012
for R-3 in W.P.Nos.28745 and 29124 of 2012

Mr.K.Raja Srinivas for R-2
in W.P.Nos.28745 and 29124 of 2012

Mr.P.S.Sivashanmugasundaram for R-1
in W.P.Nos.28745 and 29124 of 2012

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COMMON ORDER

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

All the three writ petitions arise from the common issue of locking and sealing notices of the premises in question, i.e., Nursing Home buildings and hospital building at old Door No.77, Harrington Road, Chetpet, Chennai-31 and also at Old Door No.76, New Door No.50, Harrington Road, Chetpet, Chennai-31, which was challenged by the petitioner at different stages.

2 The first writ petition, being W.P.No.7575 of 2012 was filed to question the locking and sealing notice dated 29.2.2012 issued under Section 56 read with Section 85 of the Town and Country Planning Act, 1971 in respect of building at old door No.77, whereunder the petitioner was called upon to remove the unauthorised and deviated portion of the building in question and to restore the same in conformity with the approved plan. It was further directed to discontinue the use of the building forthwith and secure compliance with the sanctioned plan of CMDA within thirty days from the date of receipt of the notice.

3 In the same time, the petitioner preferred an appeal before

the State Government, challenging the locking and sealing notice dated 29.2.2012 issued by the CMDA in respect of the construction of Hospital building at old Door No.77, Harrington Road, Chetpet, Chennai. The appellate authority, i.e., the Government of Tamil Nadu, by order dated 15.09.2012, rejected the appeal, holding that the same was premature as the appeal is maintainable only after the premises in question is sealed. Challenging the same, the second writ petition, being W.P.No.28745 of 2012 has been preferred.

4 One more writ petition, being W.P.No.29124 of 2012 has been filed, questioning the order dated 15.09.2012 passed by the State Government in the appeal in respect of the Hospital building at Old Door No.76, Harrington Road, Chetpet, Chennai, seeking for an identical relief as sought for in W.P.No.28745 of 2012.

5 In the course of the argument, it is submitted by the learned counsel appearing for the petitioner that the petitioner may be given one more opportunity to explain its case before the authorities for removal of deviation and unauthorised portion, if it is not approved, on request of the petitioner.

6 The respondent CMDA has submitted a report, reiterating the same stand that there is severe deviation and unauthorised construction of upper floor in both the buildings.

7 Having regard to the fact situation that when the authorities could not proceed with the matter on account of pendency of these writ petitions, we are of the considered view that one more opportunity be granted to the petitioner to place its case before the respondent CMDA. Accordingly, the petitioner is granted two weeks time from the date of receipt of a copy of this order, to place its case before the respondent CMDA and to take necessary steps for removal of deviations and unauthorised portions and to restore the premises in question in conformity with the sanctioned plan by the CMDA. We make it clear that on consideration of the representation / explanation made by the petitioner and also considering the steps taken by the petitioner for removal of the unauthorised and deviated portion, the CMDA shall take consequential action thereafter, in accordance with law and on its own merit.

8 With the aforestated observation, we dispose of all the writ petitions. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

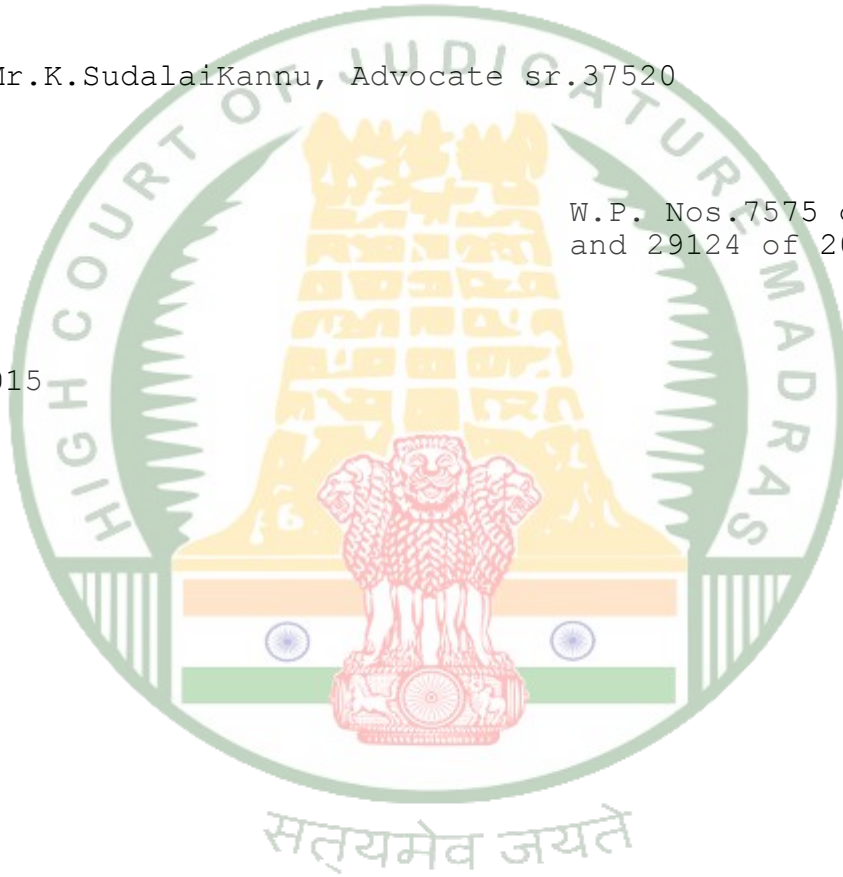
1.The Secretary to Government of Tamil Nadu,
Housing and Urban Development (UDI) Department,
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2.The Member Secretary,
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Gandhi-Iwrin Road, Madras.

+1 cc to Mr.K.SudalaiKannu, Advocate sr.37520

W.P. Nos.7575 of 2012, 28745
and 29124 of 2012

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