

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.35447 of 2015 and M.P.No.1 of 2015

N.S. Chengalvarayan

Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. By its Secretary,
Housing & Urban Development Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan
Development Authority,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.
3. The Commissioner,
Corporation of Chennai,
Ribbon Building, Chennai.
4. The Deputy Planner,
Enforcement Metropolitan
Development Authority (CMDA),
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing the 2nd to 4th respondents from in any way interfering with the building at (Shops) Old No.1 New No.130 & 131 Govindappa Naicken Street and Old No.7/233 to 15/233 New No.170 N.S.C.Bose Road Chennai-600 079 particularly by way of refused planning permission pending final determination of the appeal dated

30.09.2015 pending with the 1st respondent under section 79 of the Town and Country Planning Act 1971.

For petitioner Ms. S. Meenakumari

For respondents Mr. P.S.Sivashanmugasundaram
Special Government Pleader- R1

Mr. K. Raja Srinivas - R2 To R4
Mr. V.C.Selvasekaran - R3

O R D E R

(made by SATISH K. AGNIHOTRI, J.)

Mr. P.S.Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned counsel, accepts notice for the respondents 2 and 4. Mr.V.C.Selvasekaran, learned counsel accepts notice for the third 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 This writ petition is filed seeking a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building in question particularly by way of refused planning permission pending final determination of the appeal dated 30.09.2015 pending with the 1st respondent under section 79 of the Town and Country Planning Act 1971 (for short " The Act").

3 From a perusal of the records, it transpires that the petitioner has submitted a revised plan on 22.05.2015 for the building in question and the second respondent, vide his communication dated 08.09.2015, has refused to grant permission for regularisation of the said construction. Thereagainst, the petitioner has filed an appeal under Section 79 of the Act before the first respondent-Government on 25.09.2015, challenging the aforesaid rejection order dated 08.09.2015, which is pending consideration. It is further seen that along with the said appeal, the petitioner has also preferred an application for interim stay, in view of the provisions of Section 79 (5) of the Act.

4 Without going into the merits of the case, we are of the considered view that if the appeal is filed along with the application for interim relief, the officers are well advised to consider the application for interim relief at the earliest,

preferably within a period of two weeks, to avoid further complications.

5 Accordingly, if an application seeking interim relief is filed by the petitioner, the same shall be considered and decided by the first respondent as early as possible, preferably, within a period of two weeks from today and the appeal shall also be considered on its own merits and in accordance with law, expeditiously.

6 With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan
Development Authority,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.
3. The Commissioner,
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Ribbon Building, Chennai.

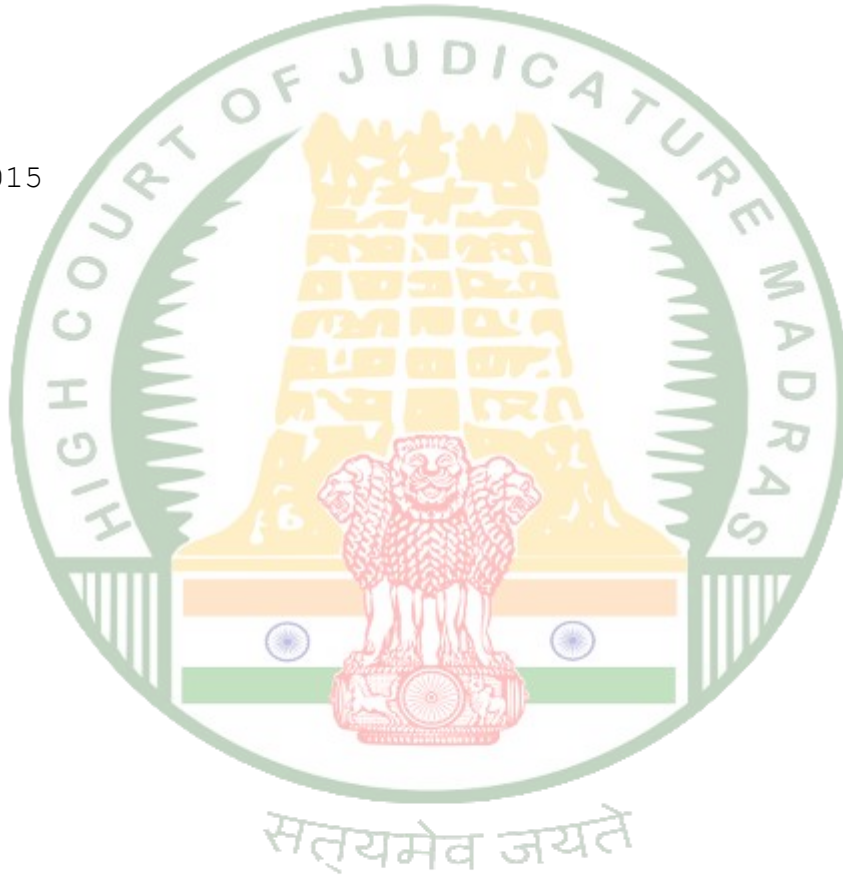
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4. The Deputy Planner,
Enforcement Metropolitan
Development Authority (CMDA),
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.

+1 cc to Mr.D.Balachandran Advocate sr.60173
+1 cc to Government Pleader sr.60287
+1 cc to Mr.K.Raja Shrinivas Advocate sr.60332

W.P. No.35447 of 2015

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