

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2015

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.39098 of 2015 &
M.P.No.1 of 2015

Priya

[PETITIONER]

Vs

- 1 The Commissioner
Corporation of Chennai
Rippon Building,
Park Town, Chennai - 600 003.
- 2 The Asst. Executive Engineer
Division 65 Zone- VI
Zonal Office, Corporation of Chennai
Chennai - 600 030
- 3 The Executive Engineer
Town Planning Section, RDC (Central)
Corporation of Chennai
2nd Street, Shenoy Nagar
Chennai - 600 030.

[RESPONDENTS]

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari, to direct the respondents 1 and 3 to call for the records pertaining to the impugned order vide Zone VI / 10180 / 2015 dated 30.09.2015 passed by the 3rd respondent and to quash the same.

For Petitioner .. Mr.R. Anandkumar

For Respondents... Mr.P.V.Selvakumar

O R D E R

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

2.Heard Mr.R. Anand Kumar learned Counsel appearing for the petitioner and Mr.P.V.Selvakumar, learned counsel who accepted notice on behalf of the respondents.

3.The petitioner submitted an Application for grant of planning permission to put up construction in Plot No.2A, Selvi Nagar, Kolathur, Chennai 600 099. The said application was not considered, inspite of the petitioner producing the necessary documents. Therefore, the petitioner filed a writ petition in W.P.No.25384 of 2014, for a direction to consider the petitioner's on line application dated 31.7.2013. The said writ petition was disposed of by an order dated 18.09.2014, directing the concerned Officer of the respondent Corporation to dispose of the said application within a period of eight weeks. Since the said order was not complied with, the petitioner had filed a Contempt Petition in Cont.P.No.400 of 2015, which is stated to be pending. In the meantime, the impugned order has been passed by the third respondent rejecting the petitioner's application on the ground that the said plot has been shown as 'Children Play Space' (CPS) in the DTP approved lay out.

4.The learned counsel for the petitioner submitted that there is no record to show that the area is reserved for Children Play Space and the respondents without conducting any enquiry, has mechanically rejected the petitioner's application. The learned counsel would further submit that the petitioner's father has filed a Suit in O.S.No.2803 of 2000 on the file of City Civil Court, Chennai, and the same is pending.

5.Considering the submissions made by the learned counsel for the petitioner and after perusing the materials placed on record, it is seen that the third respondent has passed the impugned order without opportunity to the petitioner, since, as per the records available with the third respondent, the area is a 'Children Play Space'. However, the learned counsel for the petitioner would state that patta has been granted in favour of the petitioner. Hence, it is necessary that an enquiry should be conducted in which the petitioner should be afforded an opportunity.

6.Accordingly, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the third respondent, who shall afford an opportunity to the petitioner, peruse the documents produced by the petitioner and take a fresh decision in the matter at the earliest, preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

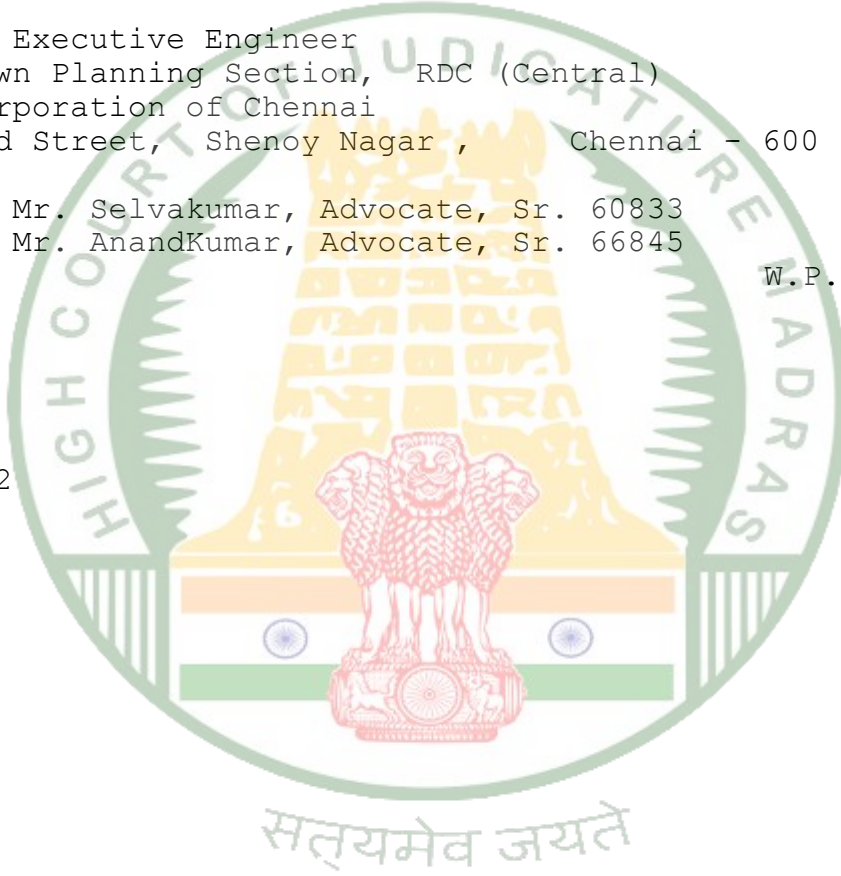
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To

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2nd Street, Shenoy Nagar , Chennai - 600 030.
- 1 cc to Mr. Selvakumar, Advocate, Sr. 60833
1 cc to Mr. AnandKumar, Advocate, Sr. 66845

W.P.No.39098 of 2015

MG (CO)
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