

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6287/2015 & MP.No.1/2015

A.Khajamodieen

... Petitioner

Versus

1. The Member Secretary
Chennai Metropolitan Development
Authority, Regional Office,
Chengalpet.
2. The Assistant Director of Town Panchayat
Thiruvallur Zone, Thiruvallur.
3. The Executive Officer
Thiruvallur Zone, Thiruvallur.
4. Mr.Bakthavatchalam

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to consider the petitioner's representation dated 08.01.2015, consequently direct the respondents 1 and 2 to grant approval to the petitioner's building at Old.No.58 New No.117, Hariharan Bazar Street, in S.No.349/29 and 349/30, Ponneri Town Panchayat, Ponneri at the earliest.

For Petitioner : Mr.B.Manimaran

For R1 : Mr.M.Karthikeyan

For RR2 & 3 : Mr.R.Vijayakumar, AGP

WEB COPY

ORDER

Heard Mr.B.Manimaran, learned counsel for the petitioner ; Mr.M.Karthikeyan, learned counsel accepting notice for the 1st respondent and Mr.R.Vijayakumar, learned Additional Government Pleader accepting notice for the respondents 2 and 3 and with their consent, the writ petition is disposed of at the admission stage itself.

2.Since the writ petition is disposed of at the admission stage itself and in the light of the direction which the Court proposes to issue in this writ petition, notice to the 4th respondent is dispensed with and the merits of the allegations/contentions made by the petitioner as against the 4th respondent are not gone into and the same is left open to the official respondents to consider the same.

3.The petitioner seeks for issuance of a writ of mandamus to direct the respondents to consider the petitioner's representation dated 08.01.2015, consequently direct the respondents 1 and 2 to grant building plan approval to the petitioner's building at Old.No.58 New No.117, Hariharan Bazar Street, in S.No.349/29 and 349/30, Ponneri Town Panchayat, Ponneri.

4.The 4th respondent herein has approached this Court by filing writ petition in WP.No.8268/2014, wherein prayer was made to direct the District Collector and the Executive Officer of the Ponneri Town Panchayat to take necessary action pursuant to the proceedings dated 10.02.2014 and prevent the writ petitioner herein who was the 3rd respondent in WP.No.8268/2014, from proceeding with the illegal construction. The Hon'ble Division Bench of this Court, vide order dated 04.08.2014 disposed of the writ petition by observing that the petitioner herein/3rd respondent therein, has filed an appeal before the Assistant Director of Town Panchayat, Tiruvallur Zone and the said Authority was directed to consider the appeal petition dated 18.04.2014 and passed orders within a period of six weeks and till then, an order of status quo was directed to be maintained. Pursuant thereto, the said authority has passed an order dated 24.12.2014 as against which the petitioner has now preferred an appeal dated 08.01.2015 to the 1st respondent. Since the appeal has not been disposed of, the petitioner has approached this Court.

5.Though it is stated that the petitioner had initially obtained the approval from the 3rd respondent, from the photographs of the construction put up by the petitioner, it is seen that it is a multi-storeyed building and obviously, the 3rd respondent has no power to

grant any building plan approval for constructing multi-storeyed building. Therefore, prima facie, it is clear that the construction put up is an illegal and unauthorised. In any event, the appeal is pending before the authority concerned.

6. Therefore, there will be a direction to the 1st respondent to consider the petitioner's appeal dated 08.01.2015 on merits and in accordance with law after issuing notice to the petitioner as well as to the 4th respondent herein and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. Till the appeal is heard and disposed of, no further construction shall be put up by the petitioner.

7. The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

AP

To

1. The Member Secretary
Chennai Metropolitan Development
Authority, Regional Office,
Chengalpet.
2. The Assistant Director of Town Panchayat
Thiruvallur Zone, Thiruvallur.
3. The Executive Officer
Thiruvallur Zone, Thiruvallur.

+3cc's to Mr.B.Manimaran, Advocate, S.R.No.13005

KJI(CO)
CA(12/03/2015)

WP.No.6287/2015