

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8302 of 2015

And

M.P.No.1 of 2015

M.Thamarai

...Petitioner

Vs.

The Executive Engineer
Works Department
Town Planning Section
Corporation of Chennai
Ripon Building, Chennai - 600 003.

...Respondent

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to Planning permission in W.D.C.No.T.P.PPA/WDCN13/02687/2014 dated 10.07.2014 and quash the same and further direct the respondent to approve planning and building permission for the petitioner to put up construction in the property situated at Plot No.39-A in 4th Street, Anna Nagar Extension, Velachery, Chennai - 600 042 comprised in S.Nos.316/1 and 318/1, T.S.No.8 and 7, measuring a total extent of 1200 square feet.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.P.V.Selvakumar

O R D E R

Heard Mr.S.Suresh, learned counsel appearing for the petitioner and Mr.P.V.Selvakumar, learned counsel appearing for the respondents.

2.Petitioner challenges an order/ proceedings of the Executive Engineer of the Corporation of Chennai dated 20.07.2014.

3. On a perusal of the impugned proceedings, it is seen that there is a one line order by which the petitioner's reply to the notice dated 30.04.2014 was rejected as not acceptable. The manner in which the Executive Engineer has passed the impugned proceedings is deprecated.

4. It is seen that the notice was issued to the petitioner on 30.04.2014 requesting for clarification in respect of an application given by the petitioner for building plan approval and building permit approval in respect of the vacant plot bearing door no. 39-A in 4th Street, Anna Nagar Extension, Velachery, Chennai - 600 042. In the remarks column in the notice dated 30.04.2014, it is mentioned as follows:

"A PORTION OF LAND IN THE PROPOSAL IN OLD S.NO.318/1 PART TO AN EXTENT OF 43.62 M2 BELONGS TO CORPORATION OF CHENNAI (O.S.R.LAND) VIDE APPROVED LAYOUT NO.231/74. IN THIS REGARD A SUIT IS PENDING IN THE CASE O.S.NO.1530/2013 WHICH WAS FILED BY YOU. PLEASE"

5. In response to the notice/ letter dated 30.04.2014, the petitioner submitted a reply clearly setting out as to how the area in question is not an OSR land. In support of the petitioner's contention, the petitioner relies upon documents executed in favour of his vendor and their predecessors in title. Petitioner would state that the suit which he has filed in O.S.No.1530 of 2013 on the file of XIII Assistant City Civil Court is for a decree of permanent injunction and an ex parte interim injunction has been granted by the Court on 14.03.2013 till 28.03.2013.

6. It is submitted by the learned counsel for the petitioner that subsequently, the interim order has been extended periodically and the suit is still pending. In spite of such reply given by the petitioner on 09.05.2014, the respondent by single line order rejected the same as not acceptable.

7. As already observed, the manner in which the rejection has been made is not tenable. If for any valid reason, the respondent is not inclined to accept the petitioner's explanation, then it should be a speaking order assigning reasons. The order should speak for itself and the validity of the order has to be decided on the reasons assigned. These basic parameters have not been fulfilled by the respondent while passing the impugned order. Hence, this writ petition is allowed and the impugned order dated 20.07.2014 is quashed. The matter is remanded to the respondent for fresh consideration with a direction to the respondent to consider the petitioner's explanation dated 09.05.2014 and also the documents

which the petitioner relies upon. The respondent is also directed to give opportunity of personal hearing to the petitioner, consider the documents produced by the petitioner and pass a speaking order on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

8.The writ petition is allowed with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

The Executive Engineer
Works Department
Town Planning Section
Corporation of Chennai
Ripon Building, Chennai - 600 003.

1 CC to Mr.S.Suresh, Advocate SR.No. 16441

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RJ (CO)
PSI (07.04.2015)

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