

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.13495 of 2016
and WMP.No.11841 of 2016

M.Mohan

...Petitioner

vs.

The Member Secretary
Chennai Metropolitan
Development Authority
Thalamuthu Building
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent in the Notice dated 06.04.2016 bearing Reg.No.EC/S-1/20182/15, issued by the respondent and quash the same.

For Petitioner : Mr.K.V.Subramanian,
Senior Counsel
assisted by Mr.S.P.Sudalaiyandi
for S. Jayakumar

For Respondent : Mr.C.Johnson for CMDA.

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

The petitioner is before this court seeking to quash the Notice dated 06.04.2016 bearing Reg.No.EC/S-1/20182/15, issued by the respondent.

2. This Writ Petition has been filed on 08.04.2016 and on the same day, when the matter was listed for admission, this court upon hearing submission of the learned Senior counsel appearing for the petitioner and on going through the materials, on a finding that a prima facie case has been made out, granted ad-interim stay of all further proceedings in pursuant to the impugned notice. The said interim order was extended by this court on 20.04.2016 and again on 01.06.2016, till today.

3. After grant of ad-interim stay, two months are over. It transpires that the building was completed in the year 2005 and the construction has been put up strictly in accordance with the planning permission; insofar as the allegation with regard to the deviation in construction/unauthorized construction, is concerned, they are said to have been made only as a temporary make-shift structure in the form of asbestos sheet and it has been put up to prevent leakage of water during the heavy and unprecedented heavy rainfall. Insofar as putting up of lift and staircase is concerned, it is said to have been made for the benefit of octogenarian and septuagenarian customers of Karur Vysya Bank, who are unable to go to the Bank, which is located in the first floor and an Automatic Teller Machiner (ATM) is also located within the precincts of Karur Vysya Bank, for the reason that it is a mandatory requirement in compliance of the directions of the Reserve Bank of India to have that facility.

4. In respect of the deviations and unauthorized construction pointed out in the notice, it is for the petitioner to comply with the defects pointed out therein and come out with a new plan/sketch which would be acceptable by the respondent-CMDA and get approval of the same. The petitioner having constructed some structures unauthorisedly and carried out the same without Planning Permission, it is for the petitioner to submit a new plan/sketch with a proposal of compliance, for the acceptance of the respondent-CMDA. The respondent/authority shall look into such modified sketch/plan and in the event of any non-compliance of the planning permission in respect of the modified plan, they can call upon the petitioner for submission of appropriate sketch/plan.

5. Since an order of interim stay has already been obtained by the petitioner and the same is continuing till date, the petitioner is directed to submit a modified proposal before the respondent/authority within 15 days from the date of receipt of a copy of this order, which shall either be approved or in case any other proposal is made, grant of post facto permission shall also be considered by imposing penalty and if required, some reasonable time shall be granted by the respondent authority for due compliance. The respondent authority is directed to do the needful in this regard in accordance with law within a period of two months from the date of receipt of the modified proposal from the petitioner. Till then, status quo as on today shall be maintained by the parties concerned.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nvsri

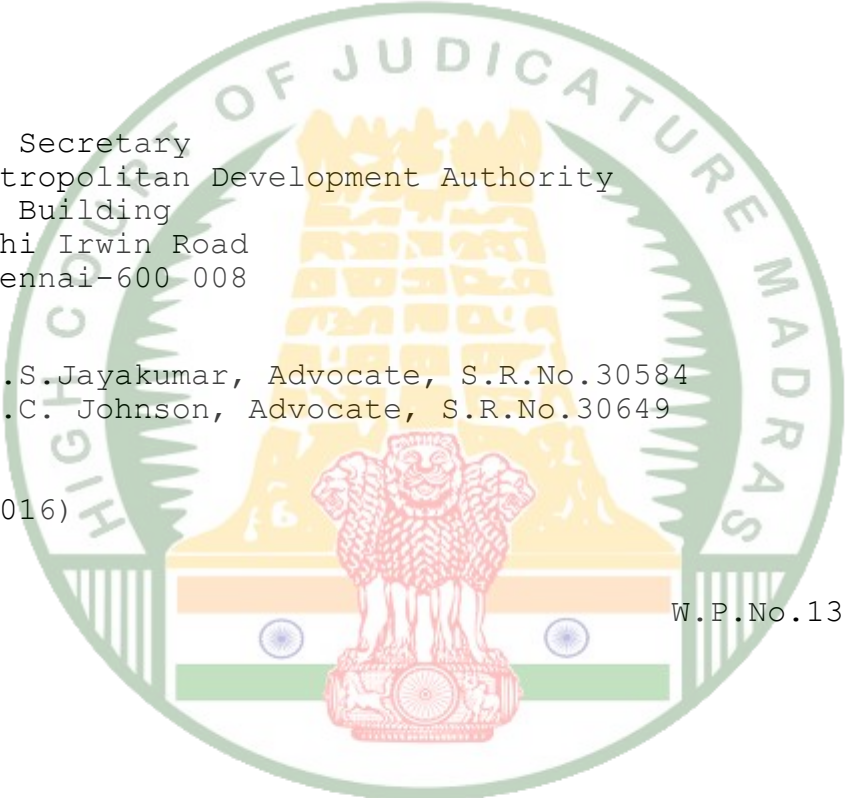
To

The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Building
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008

+1cc to Mr.S.Jayakumar, Advocate, S.R.No.30584
+1cc to Mr.C. Johnson, Advocate, S.R.No.30649

GJ(CO)
EU(30/06/2016)

W.P.No.13495 of 2016



सत्यमेव जयते

WEB COPY