

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.17058 of 2016
and W.M.P.No.14546 of 2016

S.Tennarasi

.. Petitioner

-vs-

1.The Housing and Urban Development
Department, Rep. By its Secretary,
Secretariat, Fort St. George, Chennai-9.

2.The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore, Chennai-8.

3.The Commissioner,
Corporation of Chennai,
Chennai-3.

4.K.B.Rajendran

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the first respondent pertaining to his letter No.1764/UD-VI91)/2016-3 and to quash the order dated 30.03.2016 made therein and consequently direct the 1st respondent to decide the petitioners appeal dated 25.01.2016 on merits in accordance with law.

For Petitioner : Mr.C.Umashankar

For Respondents : Mr.T.N.Rajagopalan
Spl.G.P. For R-1
: Mr.C.Johnson for R-2
: Mr.V.C.Selvasekaran for R-3

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to assail the order dated 30.03.2016 passed by the Secretary to Government of India, Housing and Urban Development Department, rejecting the appeal preferred by the petitioner against non-grant of planning permission by the CMDA.

2.A perusal of the order shows that initially the paragraphs record the facts and the rival contentions and the conclusion is only in para 5. The conclusion is predicated on a plea that there is a title dispute pending in respect of the suit property and thus, the question of grant of planning permission for the building on the site will not arise.

3.It is rightly pointed out by the learned counsel for the petitioner by reference to the civil dispute pending before the City Civil Court that the same is a bare suit for injunction filed by the fourth respondent in which interim orders are passed and subsequently, modified relating to the issue of passage. Thus, there is no title suit pending.

4.It is conceded by the learned counsel for the petitioner that the construction has been made without obtaining planning permission and thus, only post facto, the planning permission is being sought.

5.In view of the facts and circumstances, the impugned order dated 30.03.2016 is set aside as the very premise of the order is not factually correct. The matter is remitted back to the competent authority / first respondent for fresh adjudication in accordance with law.

6.Writ petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.No.14546 of 2016 stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary, Housing and Urban Development
Department, Secretariat,
Fort St. George, Chennai-9.

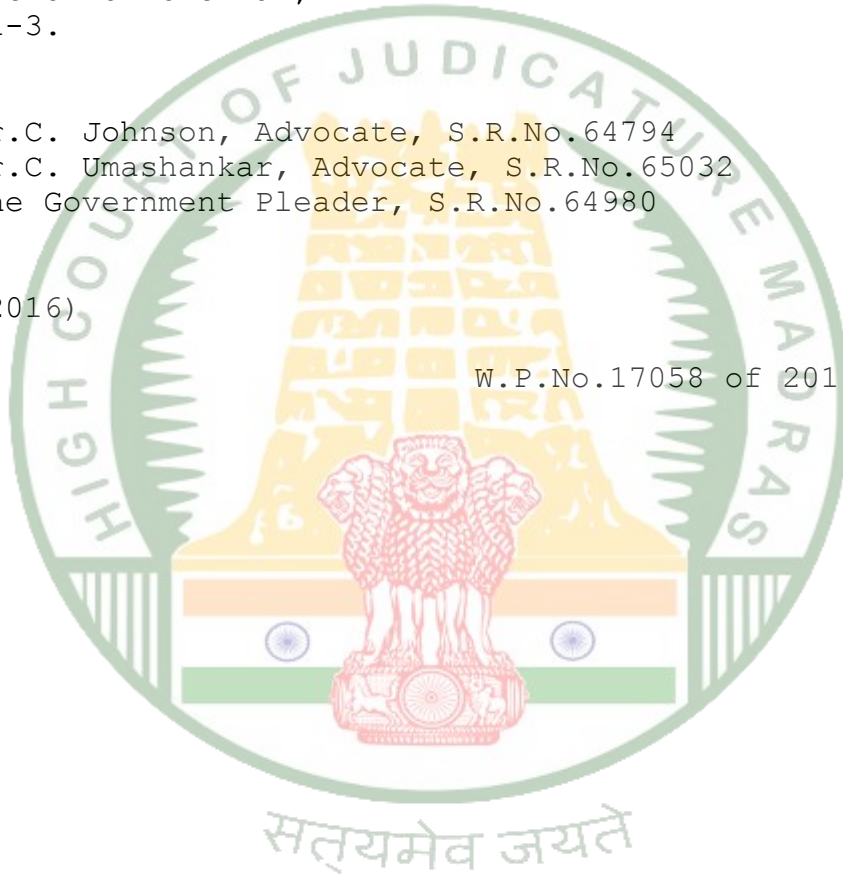
2.The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore, Chennai-8.

3.The Commissioner,
Corporation of Chennai,
Chennai-3.

+1cc to Mr.C. Johnson, Advocate, S.R.No.64794
+1cc to Mr.C. Umashankar, Advocate, S.R.No.65032
+1cc to the Government Pleader, S.R.No.64980

sai(CO)
md(25/11/2016)

W.P.No.17058 of 2016



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