

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2016

CORAM

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

W.P.No.22054 of 2016

&

WMP.18847 of 2016

S.Rakesh Kumar .. Petitioner

-vs-

1. Government of Tamil Nadu
rep.by its Secretary to Government
Housing & Urban Development Department
Secretariat, Chennai 600 009

2. Chennai Metropolitan Development Authority
rep.by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

3. Peerkankaranai Town Panchayat
rep.by its Executive Officer
Peerkankaranai
Chennai 600 063

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in their order vide G.O.(3D) No.95 dated 30.05.2016, relating to rejection of the Appeal for regularisation with respect of the premises at Plot No.28, Sathyamorthy Street, Srinivasa Nagar, Peerkankaranai, Chennai-63 in S.No.89/20, Peerkankaranai Village and quash the same and direct the second respondent to regularise the aforesaid building in accordance with law, more particularly under the Town & Country Planning Act, 1971 and the Development Regulations.

For Petitioner :: Mr.D.S.Rajasekaran

For Respondents:: Mr.P.S.Sivashanmugasundaram
Special Government Pleader for R1
Mr.C.Johnson for R2
Mr.P.Anandan for R3

ORDER

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

Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader is directed to take notice on behalf of the first respondent.

Mr.C.Johnson, learned counsel is directed to take notice on behalf of the second respondent and Mr.P.Anandan, learned counsel is directed to take notice on behalf of the third respondent.

2. The prayer in the writ petition is for issuance of a writ of certiorarified mandamus, calling for the records of the first respondent in their order vide G.O.(3D) No.95 dated 30.05.2016, relating to rejection of the Appeal for regularisation with respect of the premises at Plot No.28, Sathyamorthy Street, Srinivasa Nagar, Peerkankaranai, Chennai-63 in S.No.89/20, 8, Peerkankaranai Village, quash the same and direct the second respondent to regularise the aforesaid building in accordance with law, more particularly under the Town & Country Planning Act, 1971 and the Development Regulations.

3. Heard the learned counsel for the petitioner and the respective learned counsel for the respondents.

4. The petitioner is said to be the owner of the property at Plot No.28, Sathyamoorthy Street, Srinivasa Nagar, Peerkankaranai, Chennai and his application for regularisation of the existing ground floor + 2 floors residential building with one dwelling unit and shop at ground floor in the site in question came to be rejected by the second respondent by order dated 6.8.2014. Aggrieved by the said order, he had preferred a statutory appeal to the first respondent under Section 79 of the Tamil Nadu Town and Country Planning Act and also it appears that there is a specific undertaking given by the petitioner to remove and demolish the shop existing at the ground floor and therefore sought for approval of the stilt+2 floors residential. Now the grievance of the petitioner is that, without any personal enquiry or further hearing, the appeal filed by the petitioner has been rejected by the impugned order. Thus, alleging violation of the principles of natural justice, the petitioner is before this Court.

5. In view of the above, we direct the petitioner to submit a representation to the first respondent, as per Section 79(3) of the Tamil Nadu Town and Country Planning Act, within one month from the date of receipt of a copy of this order and on such representation being filed, it is for the first respondent to hear the petitioner and pass appropriate orders in accordance with law. It is made clear that till the disposal of the representation filed by the petitioner, status quo shall be maintained. The writ petition stands disposed of. Consequently, W.M.P.No.18847 of 2016 is closed. No costs.

Sd/-
Asst.Registrar

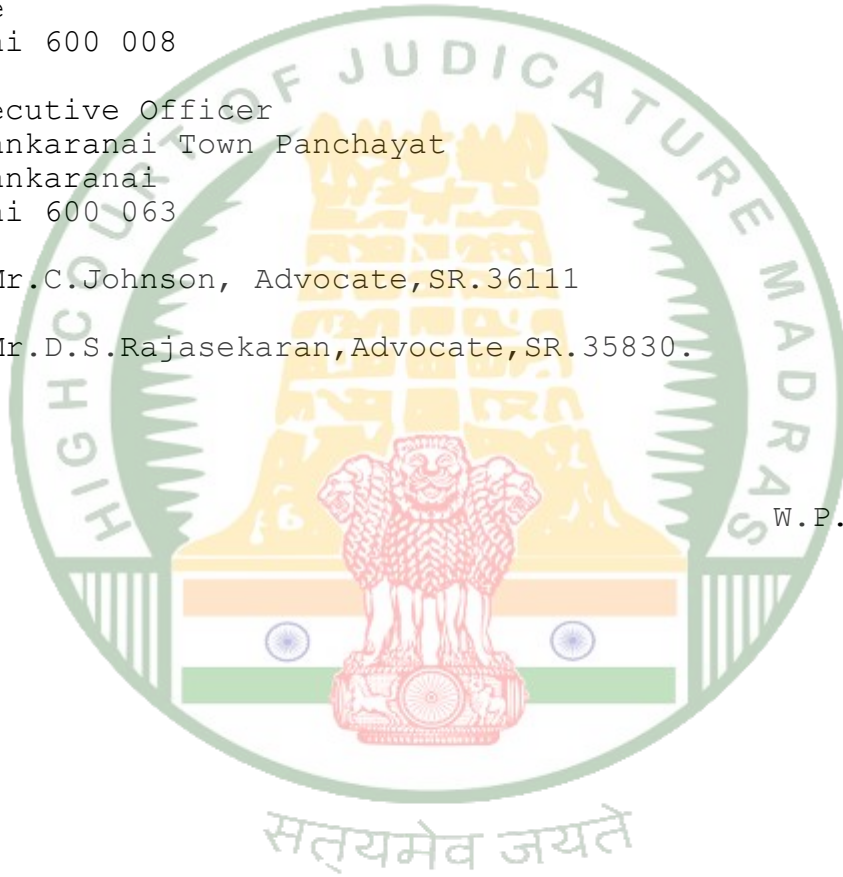
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Sub Asst. Registrar

To

1. The Secretary to Government
Housing & Urban Development Department
Secretariat
Chennai 600 009
 2. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore
Chennai 600 008
 3. The Executive Officer
Peerankaranai Town Panchayat
Peerankaranai
Chennai 600 063
- +1 cc to Mr.C.Johnson, Advocate, SR.36111
- +1 cc to Mr.D.S.Rajasekaran, Advocate, SR.35830.

rsy(co)
krd 14/7



W.P.No.22054 of 2016

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