

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.10.2016

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P. No.3976 of 2011

S.N.Chandrasekar

.. Petitioner

Vs

- 1.Chennai Metropolitan Water Supply and Sewerage Board,
Rep.by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
 - 2.Area Engineer,
Area V,
Chennai Metropolitan Water Supply and Sewerage Board, 12th Avenue, Anna Nagar,
 - 3.Corporation of Chennai,
Rep.by its Commissioner,
Rippon Buildings, Chennai.
- (R-3 Impleaded as per order dated 26.03.2013 made in M.P.No.1 of 2013 in W.P.No.3976 of 2013) .. Respondents

Prayer.: Writ petitions filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to receive and consider the application of the petitioner and provide Water and Sewerage connection to the building put up by the petitioner at Plot No.34, Door No.16, Thirumoolar Colony, Vivekanandar Street, Anna Nagar, Chennai 600 040, without insisting for the production of completion/No objection Certificate either from the first respondent or from the Corporation of Chennai within the time frame.

For Petitioner : Mr.M.Santhana Raman
For R1 : Mr.Rajasrinivasan
For R2 : Mr.Jothikumar
For R3 : Mr.R.Arul Mozhi (Chennai Corprn)
O R D E R

This writ petition has been filed to issue a writ of Mandamus by directing the respondents to provide Water and Sewerage connection to the building put up by the petitioner at Plot No.34, Door No.16, Thirumoolar Colony, Vivekanandar Street,

Anna Nagar, Chennai 600 040, without insisting for the production of completion/No objection Certificate either from the first respondent or from the Corporation of Chennai within the time frame.

2. Heard Mr.M.Santhana Raman, learned counsel appearing for the petitioner; Mr.Raja Shrinivas, learned counsel appearing for R1; Mr.Jothikumar, learned counsel appearing for R2 and Mr.R.Arul Mozhi, learned counsel appearing for R3/Chennai Corporation.

3. Pending the writ petition, a Division Bench of this Court passed an order made in W.P.Nos.1194 of 2010 and 17639 of 2013 dated 23.01.2014, which is reported in (2014)2 MLJ 551, (S.Prakash Chand Jain vs. The State of Tamil Nadu and 2 Others,) wherein it is held that the Chennai Metropolitan water Supply and Sewerage Board and Tamil Nadu Electricity Board have no authority to issue electricity connection and water supply without production of the Completion Certificate from the CMDA.

4. It is relevant to extract the above said Judgment, which reads as follows:-

"27. We have put a question to the learned counsel for CMDA as to how the developer got electricity, water and sewerage connection without obtaining completion certificate from CMDA. The learned standing Counsel submitted that the builders have now invented a novel device by filing writ petition directing the authorities to provide electricity, water and sewerage connection without insisting completion certificate from CMDA.

28. Regulation No.4(5) of Development Regularisations approved by the Government of Tamil Nadu in G.O.Ms.No.190, Housing and Urban Development Department dated 2nd September 2008 reads thus : -

Completion Certificate :-

(a) The Applicant/owner/Builder/Promoter/Power of Attorney Holder and any other person who is acquiring interest shall not put the building to use without obtaining Completion Certificate from CMDA for 'Special buildings, Group Developments, Multi-storied Buildings and Institutional buildings (exceeding 300M2 in floor area) and such other developments as may be notified by the Chennai Metropolitan Development Authority from time to time.

(b) The applicant/Owner/Builder/Promoter/Power

of Attorney Holder and any other person who is acquiring interest shall submit application in complete shape for issue of completion Certificate before probable date of completion, and CMDA/Local Body concerned, which had issued PP, shall dispose of such application."

29. The Division Bench in Consumer Action Group, rep.by its Trustee vs. the State of Tamil nadu, by its Secretary to Government, Law Department, 2006(4) CTC 483, held that water and electricity connection should be contingent on completion. Sl.No.(ix) of the direction reads thus :

(ix) To avoid future violations, buildings should be certified as having been constructed in compliance of planning permit and other applicable laws. The Certifying Officer will be personally responsible if any illegal building is certified. Electricity, water connection and occupation should be contingent on such certificate. In respect of the builders who have been identified by the Monitoring Committee as having put up illegal buildings, constructions by such builders should be certified for compliance only by the Chief Planner, who shall bear personal responsibility.

30. The Development Control Rules prohibit use of building without obtaining completion certificate. The direction to provide electricity, water and sewerage connection without insisting completion certificate from CMDA would amount to permission to put the building to use which is prohibited by statute. The Electricity, water and Sewerage Boards are not bound to entertain application for such amenities without submitting the completion certificate issued by CMDA.

31. The authorities exercising statutory functions under various enactments must assist CMDA to implement the Development Control Rules. If such authorities entertain request and provide electricity, water and sewerage connection, it would help the builder to bypass the mandatory requirement of the Statute, requiring completion certificate to occupy the building. We therefore, hold that the

Chennai Metro Water supply and Sewerage Board and Tamil Nadu Electricity Board, have no authority to issue electricity, water and sewerage connection without producing of the completion certificate from CMDA. We are therefore of the view that the Builders have no right to approach the Court for mandamus to provide electricity, water and sewerage connection without insisting completion certificate from CMDA."

5. In view of the above decision, the prayer sought for in the writ petition to consider the petitioner's application without insisting for "No objection certificate" cannot be entertained.

In the result, this writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

- 1.Chennai Metropolitan Water Supply and Sewerage Board,
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- 2.Area Engineer,
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Chennai Metropolitan Water Supply and Sewerage Board, 12th Avenue, Anna Nagar,
- 3.Corporation of Chennai,
Rep.by is Commissioner,
Rippon Buildings, Chennai.

+1 cc to M/s.R.Arulmozhi,advocate,sr.61054

+1 cc to Govt.Pleader,sr.61695.

gmi(co)
krd 5/12

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