

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3070 of 2016

M/s.Virgo Realtors (P) Limited
rep. by its Director B.V.V.Prasad
Chennai

... Petitioner

vs.

1.The State of Tamil Nadu
rep. by Secretary to Government,
Ministry of Environment and Forest
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2.The Member Secretary,
State Environment Impact Assessment Authority,
3rd Floor, Panagal Building,
No.1, Jennis Road,
Saidapet, Chennai 600 015.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, thereby directing the 2nd respondent to consider and process the File No.1751 of 2013 dated 31.08.2013 of the petitioner company pending on the file of the 2nd respondent in accordance with the memorandum dated 12.12.2012.

For Petitioner :Mr.Mounaswamynathan for
M/s.P.C.Harikumar and Asso.

For Respondents :Mr.N.Inbanathan, AGP (F)

ORDER

The petitioner has filed this writ petition for a Mandamus, directing the second respondent to consider and process their File No.1751 of 2013 dated 31.08.2013 in accordance with the memorandum dated 12.12.2012.

2. The case of the petitioner in brief is as follows:

2.1 The petitioner applied for planning permission to the Member Secretary, Chennai Metropolitan Development Authority (CMDA) for the proposed construction of group development with 8 Blocks and 275 dwelling units in S.Nos.213/2, 214/1, 215, 216/2, 3A, 3B, 3C, 3D, 225/1B, 2B, 226/1A2, 1B2 in Perumbakkam Village, Kancheepuram District on 29.04.2011. While so, the first respondent issued an office memorandum dated 12.12.2012, as per which, the Builder/Development/Project proponent can submit their report during the course of their construction and thereafter the authorities would verify the same and issue the certificate to the requesting authorities.

2.2 Thereafter, by virtue of the office memorandum issued by the first respondent on various dates i.e., 16.10.2012, 12.12.2012 and 27.06.2013, without insisting Environmental clearance certificate, the Member Secretary, CMDA accorded permission to the petitioner vide File No.B1/6146/2011 dated 18.05.2012. Following the same, Perumbakkam Town Panchayat also granted formal sanction to the petitioner on 22.05.2012. On receipt of the same, the petitioner applied for environmental clearance on 31.08.2013, which was received and was taken as File No.1751 of 2013 by the second respondent. Subsequently, a communication dated 22.10.2013 was issued, calling upon the petitioner to furnish various documents and particulars to enable the second respondent to process the application.

2.3 While so, some third parties approached the Hon'ble National Green Tribunal, Southern Region and challenged the office memorandums dated 16.10.2012, 12.12.2012 and 27.06.2013 issued by the first respondent and obtained an interim order of stay of the operation of those office memorandums. Pursuant to the same, the second respondent sent a letter dated 28.11.2014 stating that the petitioner's application would be processed, after finalisation of the case by the National Green Tribunal. Thereafter, the said case was transferred to the National Green Tribunal, Principal Bench, New Delhi and was disposed of on 7.7.2013, by quashing all the office memorandums issued by the first respondent, against which, the Hon'ble Apex Court granted an order of interim stay in Civil Appeal Nos.7191 and 7192 of 2005 dated 24.09.2015. In view of the same, there is no impediment for the second respondent to process the application of the petitioner dated 31.08.2013. Therefore, the petitioner has approached this court with the present writ petition for the above stated prayer.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4. Considering the limited nature of the relief sought for herein, this Court permits the petitioner to furnish all the documents and particulars called for by the second respondent in the letter dated 22.10.2013 along with a copy of this order to the second respondent within a period of two weeks from the date of receipt of a copy of this order. On production of the same, the second respondent is directed to consider and process the petitioner's file No.1751 of 2013 dated 31.08.2013, ***In Accordance with the Memorandum dated 12.12.2012 Issued by the Ministry of Environment and Forest, Government of India, New Delhi**, by affording an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of six weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law.

5. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS III)

*Para 4, Corrected as per order dated 7/9/2016 made in WMP.11445/16 in W.P.No.3070/16.

Sd/-

Assistant Registrar(CS-VI)
Dated:08/09/2016

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

To

1.The State of Tamil Nadu
rep. by Secretary to Government,
Ministry of Environment and Forest
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

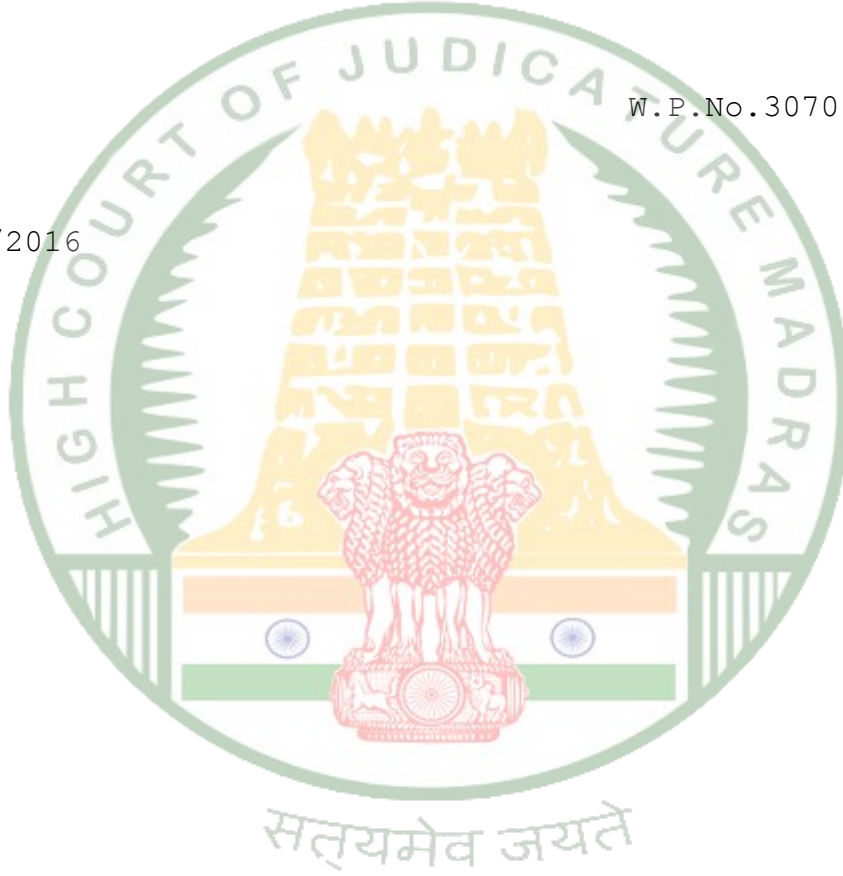
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2.The Member Secretary,
State Environment Impact Assessment Authority,
3rd Floor, Panagal Building,
No.1, Jennis Road,
Saidapet, Chennai 600 015.

+1cc to the Government Pleader, Sr.10223
+1cc to the Special Government Pleader (Forests) XXVII High
Court Chambers Chennai, Sr.10144
+1cc to Mr.p.C.Harikumar & Associates, Advocate Sr.10049

W.P.No.3070 of 2016

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