

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 27-09-2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.33940 of 2016

Mr.A.Badrinarayanan,
represented by his Power Agent
Mr.K.R.Srinivasan ...Petitioner

-vs-

1.The State of Tamil Nadu,
rep.by its Secretary,
Housing and Urban Development
Department,
Fort St.George,
Chennai-9.

2.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai-8.

3.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

...Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, to direct the respondents to forthwith remove the lock and seal in respect of the premises at Old No.130, New No.136, Anna Pillai Street, Sowcarpet, Chennai-600 079, so as to enable the petitioner to rectify and restore the said premises in conformity with the sanctioned plan on the basis of the representation, dated 30.08.2016.

For petitioner : Mr.L.Chandrakumar

For respondent 1: Mr.P.S.Sivashanmugasundaram,
Spl.Govt.Pleader.

For respondent 2: Mr.K.Raja Shrinivas

For respondent 3 : Mr.V.C.Selvasekaran

O R D E R

(Order of the Court was made by Huluvadi G.Ramesh, J.)

Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, takes notice for first respondent; Mr.K.Raja Shrinivas for second respondent; and Mr.V.C.Selvasekaran for third respondent.

2. Petitioner has filed this Writ Petition, seeking for a direction to the respondents to forthwith remove the lock and seal in respect of the premises at Old No.130, New No.136, Anna Pillai Street, Sowcarpet, Chennai-600 079, so as to enable him to rectify and restore the said premises in conformity with the sanctioned plan, on the basis of his representation, dated 30.08.2016.

3. According to the petitioner, he is the owner of the abovesaid premises, which was purchased through a sale deed and he made construction thereon as per the Planning Permission issued by the Corporation for construction of stilt floor + 2 floors of commercial-cum-residential building and due assessment of property and various taxes thereto were also made and done and, therefore, he is in full enjoyment of the property without any hindrance. While so, alleging violation, the officials of the Chennai Corporation served a notice on 22.12.2014 to produce the plan with a specified period, which, according to the petitioner, came to be complied with along with a letter, dated 24.12.2014. The further case of the petitioner is, that in spite of the above, to his shock and surprise, the second respondent served another notice, dated 07.07.2015, invoking Sections 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, thereby intending to locking and sealing and demolition of the premises and, thereafter, the premises came to be locked and sealed on 26.08.2016. The petitioner would further state that he is ready to rectify the deviations in the building as per the rules and regulations and, in this regard, he has also submitted a representation, dated 30.08.2016, to respondents 2 and 3, but, no reply is forthcoming. Hence, the petitioner has approached this Court with this Writ Petition, for the relief stated supra.

4. Heard the learned counsel for the parties.

5. In respect of the alleged violation of the Planning Permission issued for construction of the building, a notice, dated 07.07.2015, has been issued by second respondent - CMDA, pointing out certain irregularities in the construction of the building.

6. Learned counsel for the petitioner undertakes to rectify the defects pointed out by the second respondent within a reasonable time. It is also submitted, that pursuant to the notice, issued under Sections 56 & 57 read with Section

85 of the Tamil Nadu Town and Country Planning Act, the second respondent has locked and sealed the premises.

7. Considering the facts and circumstances of the case, we feel, interest of justice would be subserved if the petitioner is given an opportunity to rectify the defects pointed out by the second respondent within a reasonable time. Therefore, we direct the second respondent to remove the lock and seal made to the premises in question within a period of one week from the date of receipt of a copy of this order so as to facilitate the petitioner to rectify the defects and, thereafter, it is for the petitioner to comply with the deviations pointed out by the second respondent within a period of two months. On satisfaction of compliance so made by the petitioner, it is for the second respondent/authority to take a final decision on the matter in accordance with law. Till then, no coercive action shall be taken by the respondents against the petitioner.

8. Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
Housing and Urban Development Department,
State of Tamil Nadu, Fort St.George,
Chennai-9.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-8.

+ 1 cc to Mr. K. Raja Shrinivas, Advocate SR.55282
+ 1 cc to Mr.L. Chandrakumar, Advocate SR.55121
+ 1 cc to Government Pleader Sr.55631

W.P.No.33940 OF 2016

MSM(CO)
Eu 05.10.16