

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2016

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN
AND
The Honourable Mr.Justice S.VAIDYANATHAN

Writ Petition No.34591 of 2016

M.K.Mohammed
S/o Pocker

... Petitioner

Versus

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, directing the second respondent to consider and pass orders on petitioner's representation dated 08.09.2016, to de-seal and remove the Lock & Seal affixed on the premises at Plot No.123, Poonamallee High Road, Sivabhootham (Vanagaram) (junction of Vanagaram-Ambattur Road), Chennai - 600 095 so as to enable the petitioner to rectify the deviation and submit the regularization application before the authorities.

For Petitioner : Mr.P.Ramanathan

For Respondent-1 : Ms.Vasudha Thiagarajan
Additional Government Pleader

For Respondent-2 : Mr.Raja Shrinivas

ORDER

(Made by S.VAIDYANATHAN, J)

The petitioner has come forward with this writ petition, for a mandamus to direct the second respondent to consider and pass

orders on his representation dated 8.9.2016 to de-seal and remove the Lock & Seal affixed on the premises at Plot No.123, Poonamallee High Road, Sivabhootham (Vanagaram) (junction of Vanagaram-Ambattur Road), Chennai - 600 095 so as to enable the petitioner to rectify the deviation and submit the regularization application before the authorities.

2. Heard Mr.P.Ramanathan, learned counsel for the Petitioner, Ms.Vasudha Thiagarajan, Additional Government Pleader for the first Respondent and Mr.Raja Shrinivas, learned counsel for the second respondent.

3. The case of the petitioner is that as the owner of the property situated at Plot No.123, Poonamallee High Road, Sivabhootham (Vanagaram) (junction of Vanagaram-Ambattur Road), Chennai - 600 095, he has constructed the building and duly occupied by him and other occupants for residential and commercial purpose as early as 2014. However, the officials of the second respondent locked and sealed the premises on 10.06.2014.

4. Aggrieved against the said action of the second respondent, the petitioner preferred an appeal to the first respondent on 11.06.2014. On 04.05.2015, the first Respondent passed an order stating that since it has been decided to place the matter before the CSO Committee, the petitioner is required to furnish all details of his ownership and subsequent land acquisitions from his land to take decision on relaxation of setback and other Development Regulation norms and that the decision on de-sealing will be taken after the outcome of the CSO meeting.

5. According to the petitioner, he had appeared before the Committee and furnished all the relevant documents. Thereafter, the petitioner approached the Corporation of Chennai, seeking to regularize the construction of building. The officials of the Corporation of Chennai, inspected the premises and informed him that the subject property was locked and sealed by the Chennai Metropolitan Development Authority and therefore, the officials are unable to enter and measure the building for admitting the regularization application.

6. Thereafter, the petitioner made a representation to the second respondent on 20.01.2016 to de-seal the subject property. Thereafter, he sent a representation to the second respondent through registered post on 08.09.2016 and the same was acknowledged by the second respondent. Since there is no response from the second respondent, the petitioner has come up with the present writ petition.

7. From the impugned order passed by the first Respondent, found at page No.1 of the typed set of papers, it is very clear that the petitioner has put Commercial/Special building in width in which ordinary building alone be constructed. Furthermore, the petitioner has not obtained No Objection Certificate from Highways and any Planning approval. Therefore, the petitioner was directed to furnish all details of his ownership and subsequent land acquisitions from his land to take decision on relaxation of setback and other Development Regulation norms.

8. Admittedly, the petitioner has not furnished the particulars required by the first respondent. There is no appeal in the eye of law. Nowhere the petitioner has stated that he has got planning permission from the Metropolitan Development Authority for the construction made by him. Nowhere the petitioner has requested the authorities for ratification of the so called illegal construction made by him, apart from furnishing the documents sought for already mentioned supra.

9. We find as there is no appeal in the eye of law, direct the second respondent to consider the representation dated 08.09.2016, cannot be acceded, as the petitioner is trying to seek helping hand from this Court to regularise the illegality alleged to have been committed by him. Hence, we find no merit in the relief sought for by the petitioner. Accordingly, we dismiss the writ petition. No costs.

10. It is open to the Authorities to proceed in accordance with law and pass appropriate orders to remove the encroachment or illegal construction within a month from the date of receipt of a copy of this order. If no action is taken by the Authorities, in case it is brought to the attention of this Court about the inaction of the officials concerned, this Court will have to show them the doors as the officers are receiving wages/salary for the work to be done that are entrusted to them. There is no purpose in retaining them in service as they are a 'waste' to the Department as well as to the society.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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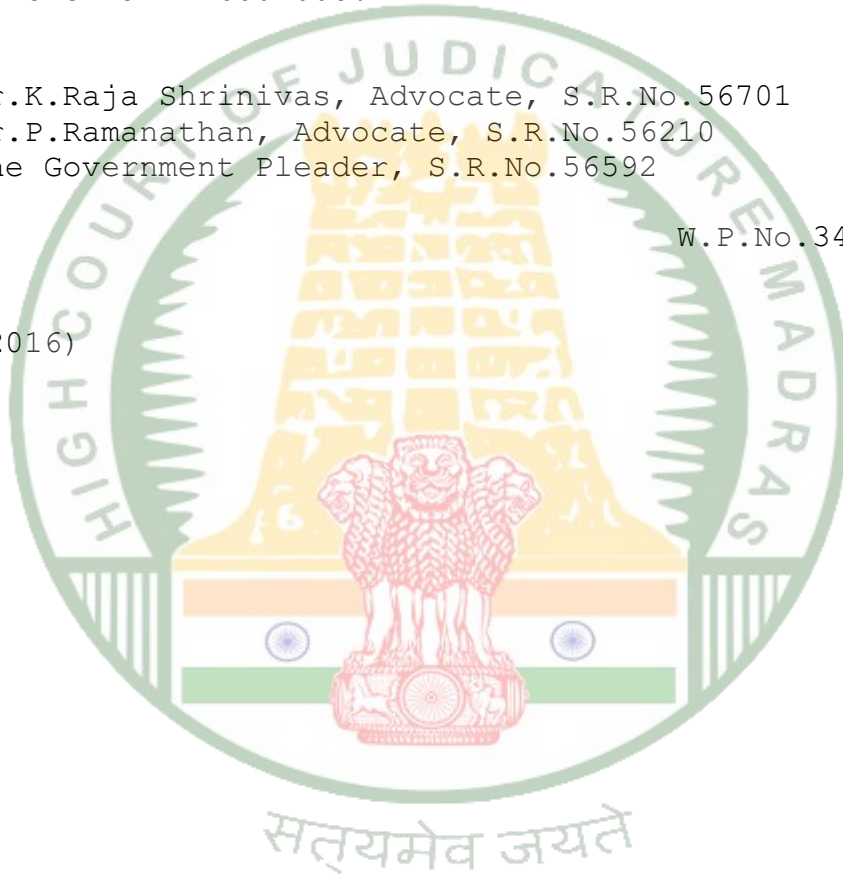
To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.
2. The Member-Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.56701
+1cc to Mr.P.Ramanathan, Advocate, S.R.No.56210
+1cc to the Government Pleader, S.R.No.56592

W.P.No.34591 of 2016

NR(CO)
CA(08/11/2016)



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