

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.3930 of 2016 and W.M.P. Nos. 3275 and 3276 of 2016

Deepak Kumar D. Jain

Petitioner

Vs.

- 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
- 3 The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai 600 003
- 4 The Chairman and Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
Chennai 600 002
- 5 The Chairman
TANGEDCO
Anna Salai, Chennai 600 002

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari by calling for the records pertaining to the notice dated 05.01.2016 bearing letter No.ED/N-1/1444/2011 issued by the second respondent under Section 56(2) sub clause (iii) and 2A of the Town and Country Planning Act and to quash the same.

For petitioner Mr. A. Velmurugan

for Mr. H. Adaikala Arokiaraj

For R1 Mrs. A. Srijayanthi
Special Government Pleader

For R2 Mr. N. Sampath, Standing Counsel

For R3 Mr. A. Nagarajan, Standing
Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

M/s. A. Srijayanthi, learned Special Government Pleader, N. Sampath, learned Standing Counsel and A. Nagarajan, learned Standing Counsel, accept notice for respondents 1, 2 and 3 respectively. Notice to other respondents is dispensed with at this stage, inasmuch as no order prejudicial to their interest is passed in this writ petition.

2 This writ petition is filed calling in question the justifiability of the de-occupation notice dated the 5th ultimo issued by the second respondent, viz., Chennai Metropolitan Development Authority under Section 56(2)(iii) and 2A of the Tamil Nadu Town and Country Planning Act, 1971, (for short "the Act").

3 At the threshold, it is worth pointing out that challenging the de-occupation notice impugned herein, the petitioner has preferred an application under Section 80-A of the Act before the first respondent-Government on the 7th ultimo. Without giving a reasonable time to the said authority to take a decision on the said application, as specified in the statute itself, the petitioner has virtually rushed to this Court with the instant writ petition on the 11th ultimo, challenging the same de-occupation notice, which is the subject matter of the pending application before the first respondent-Government.

4 We have observed, time and again, in a catena of decisions that the practice of approaching this Court without affording a reasonable opportunity to the competent authority, wherein, the lis is pending consideration, to pass orders on the same, is not only deprecatory but also tantamount to misuse of judicial process.

Accordingly, this writ petition is dismissed with costs quantified as Rs.2,000/-, payable to the Tamil Nadu State Legal Services Authority, Chennai. Connected W.M.Ps. are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cad
To

- 1 The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009
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Chennai Metropolitan Development Authority
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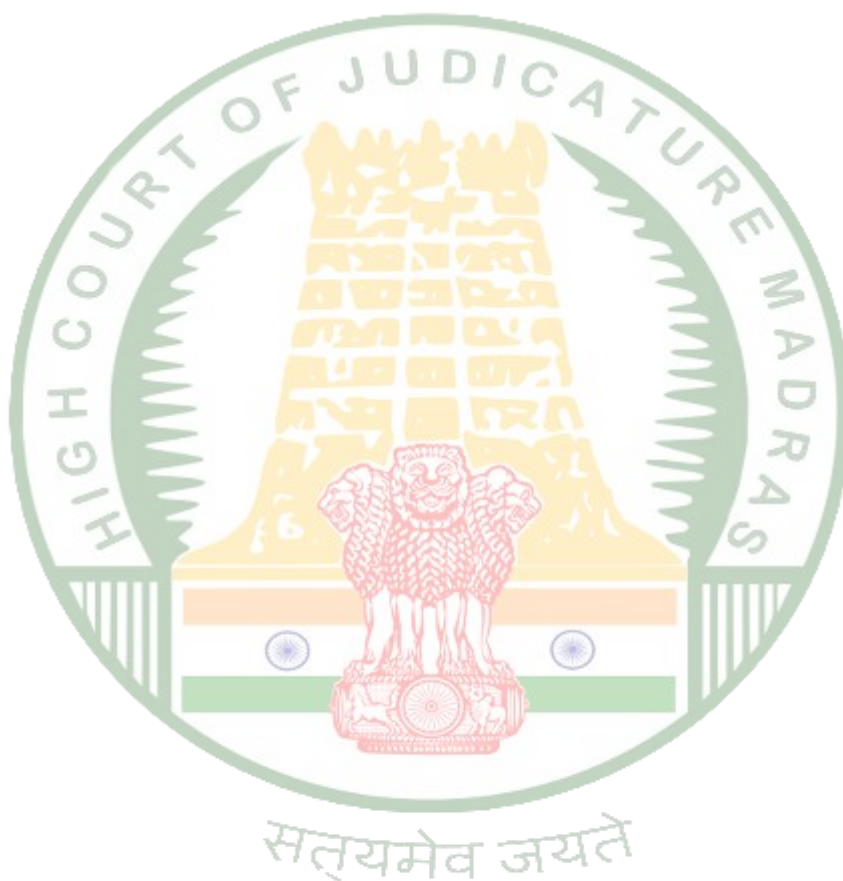
1.The Secretary
TamilNadu State Legal Services Authority
Chennai

+1 cc to Mr.N.Sampath, Advocate sr.7088
+1 cc to Mr.A.Nagarajan Standing Counsel sr.6980

+1 cc to Mr.H.Adaikala Arockiaraj Advocate sr.6970
+1 cc to Government Pleader sr 7174

W.P. No.3930 of 2016

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