

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.6319 of 2017
and
W.M.P.Nos.6811 & 6812 of 2017

M/s.Kartik Laboratories,
rep. by its Managing Partner Mr.M.Chettiappan,
No.2B, 4th Street, TNGO Colony,
Nanganallur,
Chennai - 600 061. ... Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.
2. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.
3. The Executive Engineer,
Zone VII,
Ambattur, Greater Chennai Corporation,
Chennai - 600 053. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 28.11.2016 bearing reference number Z07/TPENF/68/2016 passed by the third respondent and quash the same and consequently direct the third respondent to consider the Revised Plan application dated 08.03.2017 bearing ref. No.COC/1229362492 on merits in accordance with the applicable provisions of law.

For Petitioner : Mr.V.P.Parivallal

For Respondents : Mr.K.Rajasrinivas
for 1st respondent

Mr.V.C.Selvasekaran
for respondents 2 and 3

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.K.Rajasrinivas, learned counsel, takes notice for the first respondent. Mr.V.C.Selvasekaran, learned counsel takes notice for respondents 2 and 3.

2. The petitioner has filed this writ petition seeking to quash the impugned order dt. 28.11.2016 passed by the third respondent and consequently direct the third respondent to consider the revised plan application submitted by the petitioner dt. 8.3.2017 as per law.

3. It is the case of the petitioner that the petitioner is the owner of the property in question and they had given the said property on lease to M/s.Sri Balaji Castings Private Limited and continued to collect the rents from the tenants. One Jegadeesan, who is the brother of petitioner's wife started claiming right over the property and also causing unnecessary disturbances to the petitioner as well as the tenant, which resulted the tenant filing rent control proceedings. It is the further case of the petitioner that the building presently stands on the property is within the permissible limits of construction and supported by plan given by the SIDCO. On 25.10.2016, the third respondent issued notice under Sections 56, 57 and 85 of the Tamil Nadu Town and Country Planning Act, 1971 calling upon the petitioner to produce the approved plan in respect of the constructed area of the subject property. On 31.10.2016, the petitioner sent a reply to the said notice. On 24.11.2016, the third respondent inspected the site and at that time, the petitioner has produced all the records including the approved plan. While so, on 28.11.2016, the third respondent issued the impugned notice requiring compliance with the planning permission granted under Section 49 of the said Act. As per the said notice, the petitioner has filed a revised plan with application on 8.3.2017 and the same is still pending consideration. Hence, the writ petition seeking to quash the impugned order dt. 28.11.2016.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. It appears that the property in question has been let out by the petitioner to the tenant for running industry and the petitioner is collecting rents from the tenant. With regard to the property in question, a civil suit is stated to be pending and the tenant has also initiated rent control proceedings and the same is also pending. The notice issued by the third respondent calling upon the petitioner to produce the approved plan was replied by the petitioner. After issuance of the impugned notice, the petitioner has submitted a revised plan on 08.03.2017 and the same is pending for consideration.

6. Considering the facts and circumstances of the case and without going into the merits of the case, we direct the second and third respondents to consider and pass orders on the revised plan application submitted by the petitioner on merits and in accordance with law after affording an opportunity within a period of two months from the date of receipt of a copy of this order. Till the orders are passed, no coercive steps shall be taken by the respondent/authorities.

7. The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.6811 & 6812 of 2017 are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To:

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.

2. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

3. The Executive Engineer,
Zone VII,
Ambattur, Greater Chennai Corporation,
Chennai - 600 053.

+1cc to Mr.V.Parivallal,Advocate sr.16123

+1cc to Mr.Rajasrinivas,Advocate sr.16271

W.P.No.6319 of 2017

sks (co)
ss (23/3/2017)



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