

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.13696 and 11432 of 2017

WMP Nos.14887 and 12411 of 2017

M/s.Amarprakash Developers Private Limited,
Company incorporated under the Companies Act, 1956,
represented by its Authorised Signatory,
M.Ramesh,
S/O.Murugesan,
Having its registered Office at
No.42, Rajendra Prasad Road,
Chrompet,
Chennai-44.

... Petitioner in both
Writ Petitions

.. Vs ..

1.The Executive Officer,
Kundrathur Town Panchayat,
Chennai-600 069.

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

... Respondents in both
Writ Petitions

Prayer in W.P.No.13696 of 2017: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent, pertaining to the demand notice in Na.Ka.No.117/2017 A1, dated 15.05.2017, sent pursuant to the stop work notice in Na.Ka.No.10/2017, dated 27.02.2017, quash the same and consequentially direct the 1st respondent to renew the building permit pertaining to the project "Amarprakash Temple Waves" at the earliest.

Prayer in W.P.No.11432 of 2017: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent, pertaining to the notice in

Na.Ka.No.117/2017 A1, dated 13.04.2017, sent pursuant to the stop work notice in Na.Ka.No.10/2017, dated 27.02.2017, quash the same and consequentially direct the 1st respondent to issue renewal of building permit at the earliest.

For Petitioner : Mr.P.H.Aravind Pandian,
Senior counsel
for M/s.Kumarpal R Chopra
in both Writ Petitions

For Respondents : Mr.S.Diwakar
Special Government Pleader
in both Writ Petitions

COMMON ORDER

W.P.No.11432 of 2017 has been filed by the petitioner to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent, pertaining to the notice dated 13.04.2017, sent pursuant to the stop work notice dated 27.02.2017 and quash the same and consequentially direct the 1st respondent to issue renewal of building permit.

2.W.P.No.13696 of 2017 has been filed by the petitioner to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent, pertaining to the demand notice dated 15.05.2017, sent pursuant to the stop work notice dated 27.02.2017 and quash the same and consequentially direct the 1st respondent to renew the building permit pertaining to the project "Amarprakash Temple Waves" at the earliest.

3.It is the case of the petitioner that they are developing a residential project by name and style of "Amarprakash Temple Waves" and had made an application to the 2nd respondent for the proposed construction and development that consists of 16 block residential development 2300 dwelling units. The said application was examined and approved by the 2nd respondent, after making payments of necessary fees on 09.10.2013. The validity of the planning permission was three years. Subsequently, the petitioner had made an application to the 1st respondent for issuance of building permit for the construction of 6 blocks comprising of 2300 dwelling units and the same was approved vide order dated 28.02.2014. The petitioner had also paid the building plan approval fee to the authority.

4.According to the petitioner, they had paid a sum of Rs.2,51,43,500/- as license fees for obtaining the planning permit. The validity of the building permit was three years i.e., from 28.02.2014 to 27.02.2017. The petitioner has contended that due to unforeseen circumstances like the floods

in the year 2015, followed by the cyclone in the year 2016, they could not complete the project within three years. Therefore, in order to proceed with the construction of remaining units, an application for renewal of the planning permission was made on 07.09.2016 and on payment of scrutiny fees, the planning permission was approved on 20.02.2017 with effect from 09.10.2016 for a further period of three years.

5.While the matter stood thus, the 2nd respondent had issued a stop work notice dated 27.02.2017 stating that the building permission has expired and that a fresh application has to be made. On receipt of the same, the petitioner had sent a letter to the 1st respondent, seeking for renewal of the building permission. However, the 1st respondent, vide his letter dated 15.05.2017, had demanded a sum of Rs.9,57,57,300/- on the ground that a fresh application only has to be made for obtaining building permission on payment of necessary building license fees. Challenging the stop work notice, dated 13.04.2017 and the orders dated 13.04.2017 and 15.05.2017 passed by the 1st respondent, the petitioner has filed the above Writ Petitions.

6.The 1st respondent has filed his counter, wherein at Para 7, he has stated that as per Section 204 of the Tamil Nadu District Municipalities Act, 1920, at the time of ending license, new building permission can only be granted. Further, he has also mentioned that under Section 50 of the Tamil Nadu Town and Country Planning Act, 1971, the respondent had demanded for New Building Planning Permission, vide letter dated 15.05.2017.

7.Mr.P.H.Aravind Pandian, learned Senior counsel appearing for the petitioner submitted that in similar circumstances, this Court in an unreported Judgment dated 17.04.2017 made in W.P.No.3946 of 2017 set aside the impugned order passed by the Municipality and directed the authority to renew the planning permission on payment of requisite scrutiny fee.

8.Mr.P.H.Aravind Pandian, learned Senior counsel appearing for the petitioner also submitted that the petitioner is willing to pay the requisite scrutiny fee on demand being made by the 1st respondent.

9.Mr.S.Diwakar, learned Special Government Pleader appearing for the respondents has also submitted that the issue involved in the present Writ Petition is covered by the Judgment relied upon by the learned Senior Counsel appearing for the petitioner.

10.In view of the submission made by both sides, the impugned orders dated 27.02.2017 and 13.04.2017 passed by the 1st respondent and the impugned order dated 15.05.2017 passed by the

1st respondent in W.P.No.13696 of 2017 passed by the 1st respondent are set aside. The 1st respondent is directed to process the petitioner's application for renewal of the planning permission, on payment of requisite scrutiny fee and other applicable payments, such as, Building Construction Welfare Fund and Vacant Site Tax.

11.After receiving payments of necessary charges by the petitioner, the 1st respondent is directed to consider the granting of necessary permit within a period of two weeks from the date of making payments. It is also made clear that the 1st respondent shall issue the demand in respect of scrutiny fee and other charges within one week from the date of receipt of a copy of this order.

With these observations, the Writ Petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mps

To

- 1.The Executive Officer,
Kundrathur Town Panchayat,
Chennai-600 069.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu - Natarajan Building,
No.1, Gandhi-Irwin Road,
Egmore,
Chennai-600 008.

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