

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Seventeenth day of March Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE M.M.SUNDRESH

WMP No.1452 of 2017

IN WP.37908/2016

NETHRODAYA

[PETITIONER]

Vs

1 THE SECRETARY TO GOVERNMENT
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT, SECRETARIAT,
CHENNAI-600 009

[RESPONDENTS]

2 THE MEMBER-SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT
AUTHORITY, THALAMUTHU NATARAJAN
BUILDING, NO.1, GANDHI-IRWIN ROAD,
EGMORE, CHENNAI-600 008

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an Interim Direction to the 2nd Respondent to issue the approved building plan permission for the second floor construction to the Petitioner, which is found approvable as per 2nd Respondents Letter No.C417250/2015 dated 31.08.2016 subject to the outcome of the above WP No.37908 of 2016, in (WMP No.1452 of 2017 IN WP.37908/2016).

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.PRABHAKARAN, Advocate for the petitioner and of MR.S.DIWAKAR Special Government Pleader for 1st Respondent and of MR.M.KARTHIKEYAN Advocate 2nd Respondent of the Respondents the court made the following order:-

The petitioner has been running an Educational institution for physically challenged persons, in the land belonging to the State Government. The petitioner sought for approval of the building plan submitted for the construction of second floor, placing reliance upon Section 59(4) of the Tamil Nadu Town and Country Planning Act, 1971. It is the case of the petitioner that it being the lessee of the Government, the benefit conferred under the aforesaid provision has to be extended. By the impugned order, the request of the petitioner was rejected.

2.Learned counsel appearing for the petitioner submits that in the letter of the second respondent dated 31.08.2016, the planning permission sought for the building was found to be in order but it was not issued on the sole premise that the petitioner has not paid the infrastructural charges and amenity charges. Thus the direction petition will have to be allowed notwithstanding the impugned order in view of the benefit conferred under Section 59(4) of the Tamil Nadu Town and Country Planning Act, 1971.

3.Learned Special Government Pleader appearing for the first respondent would submit that the Government has not granted exemption and therefore, the petitioner has to pay the amount.

4.The controversy can be considered at the later point of time. Admittedly, the petitioner has put up the construction. The fact that the petitioner is running an educational institution meant for the physically challenged persons is not in dispute. Similar is the case with the lease granted in favour of the petitioner. Now it appears that payment of about Rs.12 lakhs has been made.

5.Hence considering the above, this Court is inclined to allow this petition and accordingly, this petition is allowed subject to the condition that the petitioner pays a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the second respondent within a period of eight weeks from the date of receipt of a copy of this order, of course, without prejudice to the contentions in the writ petition. As and when such payment is made, the second respondent shall issue appropriate orders, approving the building plan subject to any other compliance, within a further period of four weeks thereafter.

-sd/-
17/03/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT, SECRETARIAT,
CHENNAI-600 009.

2 THE MEMBER-SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT
AUTHORITY, THALAMUTHU NATARAJAN
BUILDING, NO.1, GANDHI-IRWIN ROAD,
EGMORE, CHENNAI-600 008

C.C. to M/S.R.PRABHAKARAN Advocate on Sr.No.3663

The Government Advocate, High Court, Madras - 104.

Order

in
WMP.1452/2017

in
WP.37908/2016

Date :17/03/2017

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
ADD 24.03.2017