

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.6109 of 2013

and

M.P.No.1 of 2013

R.Mahendra Kumar Jain

.. Petitioner

-vs-

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

2.The Secretary,
Housing and Urban Development Department,
Secretariat,
Fort St. George,
Chennai.

... Respondents

(Respondent No.2 impleaded as per this
order)

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records on the file of the first respondent culminated in Ref.No.EN2/19882/2013 dt. 18.2.2013 issued under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 for locking and sealing of the premises bearing New Door No.25, Old Door No.14, Vichoor Muthiah Mudali Street, Choolai, Chennai-600 112 and quash the same and consequently, restrain the respondent from interfering with the peaceful possession and enjoyment of the property bearing New Door No.25, Old Door No.14, Vichoor Muthiah Mudali Street, Choolai, Chennai-600 112.

For Petitioner	:	Mr.G.Sankaran
For Respondents	:	Mr.N.Sampath for R1
		Mr.M.K.Subramanian
		Government Pleader for R2

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The bundle is not available. The learned counsel for the petitioner has handed over in Court the copies of the affidavit, petition and the typed set of papers. The learned counsel for respondent No.1 has also handed over the copy of counter-affidavit.

2. The petitioner has prayed for stay of the lock and seal notice dated 18.02.2013 issued under Sections 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 in respect of the premises bearing New Door No.25, Old Door No.14, Vichoor Muthiah Mudali Street, Choolai, Chennai-600 112.

3. The admitted position is that there are two additional stories constructed, apart from set back violations. The petitioner has applied for regularization on 04.10.2012, which was returned on 09.11.2012. It is stated that in view of the rejection of the plan, the matter is stated to be pending before the competent authority of the State Government.

4. In the counter-affidavit of respondent No.1, it has been stated that the petitioner has already filed W.P.No.5808 of 2013 and this Court in its order stated that as the stay petition is pending on the file of the Secretary to Government, without expressing anything on merits the first respondent was directed to consider the stay petition dt. 21.2.2013. Thereafter, what happened is not known.

5. The Secretary, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai is impleaded as respondent No.2 in this petition. Memo of parties be amended accordingly. Mr.M.K.Subramanian, learned Government Pleader accepts notice for the said respondent.

6. We also find there are set back violations in the building, apart from floor violations. The set back violations are not capable of being cured as per the Master Plan, as observed by us in a series of orders.

7. Be that as it may, we direct respondent No.2 to take a decision in this matter within a period of one month of the receipt of the copy of this order, as it is already four years old.

8. The writ petition, accordingly, stands disposed of. No costs. Consequently, M.P.No.1 of 2013 is closed.

9. List for compliance on 21.4.2017.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bbr

To

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 2.The Secretary,
Housing and Urban Development Department,
Secretariat,
Fort St. George,
Chennai.

Copy to:-
The Sub Assistant Registrar (Writs),
High Court, Madras.

+ 1 cc to Mr. N. Sampath, Advocate Sr.9371

सत्यमेव जयते

W.P.No.6109 of 2013

KK(CO)
EU 02.03.17

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