

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.11590 of 2007 and MP.No.1 of 2007

1.N.Vijaya

2.N.Srinivasan

... Petitioners

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road,
Egmore, Chennai - 8.

2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent entire proceeding in vide Lr.No.Reg/C6/13892/99, dated 6.3.2007 and the consequential letter No.EC2/4994/2007 dated 9.3.2007 quash the same as illegal and direct the 1st respondent to consider petitioners regularisation application after giving opportunity to the petitioner.

For Petitioners: No appearance
For R1 : Mr.N.Sampath
For R2 : Mr.A.Nagarajan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN.,J]

The petitioners challenges the impugned notices dated 06.03.2007 and 09.03.2007 respectively issued by the first respondent with regard to the unauthorised construction without planning permission of Basement Floor + Ground Floor + Mezzanine Floor + 5th Floor (part) commercial building at Door No.162/94, Usman Road, T.Nagar, Chennai-17 in RS No.5583/3, Block No.128, filed this writ petition and the same was admitted on 30.3.2007

and an order of interim injunction until further orders was granted on that day.

2. In the counter affidavit of the first respondent dated 28.11.2011 it was indicated among other things, the petitioners did not furnish any approval plan for the part of the building, approved by the Corporation of Chennai during the year 1997 and his request for regularisation was also rejected and the materials available on the record would clearly indicate that the entire building was not completed prior to 28.02.1999.

3. This writ petition was listed on 28.7.2017 and on that day the learned counsel appearing for the petitioners remained absent and taking into consideration of the photographs produced, this Court has directed respondents 1 and 2 to cause joint inspection of the premises in question and submit a report.

4. Accordingly, the 2nd respondent has filed a counter affidavit dated 21.08.2017, wherein it has been stated among other things that the premises in question has been inspected by the Assistant Executive Engineer, Unit-30, Zone-X and the Assistant Engineer, Division-136, Unit-30, Zone-X, Greater Chennai Corporation on 04.03.2017 and after inspecting the site in question, action has been initiated by issuing a notice calling for Approved Plan under Section 56 and 57 r/w Section 85 of Tamil Nadu Town and Country Planning Act, 1971, dated 07.03.2017 and further action against the unauthorised construction will be taken as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

5. The petitioners had put up the construction of commercial building containing Ground Floor + 5 Floors and it is relevant to extract the nature of deviation indicated in the survey conducted in respect of special & multi storied commercial / residential building at Usman Road, T.Nagar, Ranganathan Street, during the month of August 2007.

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S. No	Ward No.	Name of owner & site addresses	Type of Buildings	Plot extent Sq. ft	Total Built up area in Sq. ft	Plot coverage%		F.S.I		Set Back Details In Feet			Approved details	Action taken	Remarks
						As per norms	Actual	As per norms	Actual		Requirement	Available			
17	127	TNU Nagara ja and Others Old No.94 New No.162 Usman Road	Commercial GF+5F	5440	29920	0.50	100	1.5	5.5	FS B	22.96	Ni1			Par kin g req uir ed 22 car s; Les s by 21 car s
										SS B1	22.96	Ni1			
										SS B2	22.96	Ni1			
										RS B	22.96	Ni1			
												Ni1			

6. This Court has put a specific question to the respective learned standing counsel appearing for the respondents as to whether survey has taken place after 2007 and the answer is in negative and it is regret to note that no further action on the part of the respondents has been taken.

7. Since, the learned counsel for the petitioner was absent on earlier occasions and though the matter is listed today under the caption for dismissal, once again there is no representation on behalf of the petitioner. Therefore, this writ petition is dismissed for default and the interim order granted in M.P.No.1 of 2007 in W.P.No.11590 of 2007 stands vacated and the miscellaneous petition is dismissed. No costs.

8. In the light of the violation of the relevant norms committed by the petitioner, the electricity connection granted to the premises in question shall be disconnected forthwith and the respondents are directed to file a status report on 01.09.2017.

9. The learned counsels appearing for the parties can get certified copy of the order on payment of necessary charges.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road,
Egmore, Chennai - 8.
2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.
3. The Secretary to Government,
Urban and Housing Department,
Chennai.

Copy to:

The Section Officer,
Writ Section,
High Court, Madras.

+1cc to Mr.N.Sampath, Advocate in sr.no.61002

W.P.No.11590 of 2007

SR(CO)
NR 28/08/2017

सत्यमेव जयते

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