

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2017

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THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.19637/2017 and WMP.No.21206 of 2017

Dr.S.Arunkumar

.. Petitioner

vs

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Chennai-600008.

2.The Commissioner,
Corporation of Greater Chennai,
Rippon Buildings,
Park Town, Chennai-600 003.

3.The Executive Engineer, Zone-10,
Corporation of Greater Chennai,
No.117, NSK Salai,
Kodambakkam,
Chennai-600 024.

4.The Secretary to Government of TamilNadu,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

... Respondents

R4 impleaded vide order dated 04.08.2017
in WMP.No.21735 of 2017.

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ of direction in the nature of a writ directing the Respondents 1 and 2 to consider and initiate appropriate action on the representation dated 29.07.2017 given by the Petitioners as against the illegal construction which is taking place in the property situated at Door No.3A/3B, Srinivasan Street, Seethapathi Nagar, Velachery, Chennai-600 042 through the Respondents 4 to 6.

For Petitioner : Mr. B.Harikrishnan

For Respondents : Mr.V.C.Selvasekaran for R2 and R3
Mr.A.N.Thambidurai, Spl GP for R4
Mr.N.Sampath for R1

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner is a practicing Doctor and he converted his garage into a clinic which is situated in Flat No.11-A and started practicing as a Doctor. On 30.10.2000, the petitioner applied for regularization before the 1st respondent along with all necessary documents and reports

evidencing the fact that such clinic was in existence much prior to 28.02.1999. However, the 1st respondent vide order dated 20.07.2017, has rejected the regularization application and it is followed by notice dated 21.07.2017 sent by the 3rd respondent under Section 56 & 57 read with Section 85 of the Town and Country Planning Act, 1971, requesting him to discontinue the occupation of the premises of clinic in the ground floor within seven days from the date of receipt of the notice.

3. The petitioner challenging the legality of the order of rejection of regularization passed by the 1st respondent preferred an appeal under Section 113 A of the Tamil Nadu Town and Country Planning Act, 1971 and it is to be disposed of and hence came forward to file this writ petition.

4. The learned counsel appearing for the petitioner would submit that as on today, the petitioner's premises is under lock and seal and till the disposal of the said appeal, further proceedings in the form of demolition may not take place and prays for appropriate orders.

5. Per contra, Mr.V.C.Selvasekaran, learned Standing Counsel appearing for the Corporation of Chennai would submit that the remedy open to the petitioner, if any, and if it is so advised is to invoke Section 113 C of the Tamil Nadu Town and Country Planning Act, 1971.

6. This Court has carefully considered the rival submission and also perused the materials placed before it.

7. Though the petitioner prays for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 4th respondent to entertain the appeal, if the papers are otherwise in order and dispose of the same in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and till such time, the respondents 2 and 3 shall defer further decision as to the demolition of the offending construction and however, shall keep the premises under lock and seal.

8. The writ petition stands disposed of with the above direction.

No Costs. Consequently, connected Miscellaneous Petition is closed.

[M.S.N.,J] [N.S.S.,J]

12.09.2017

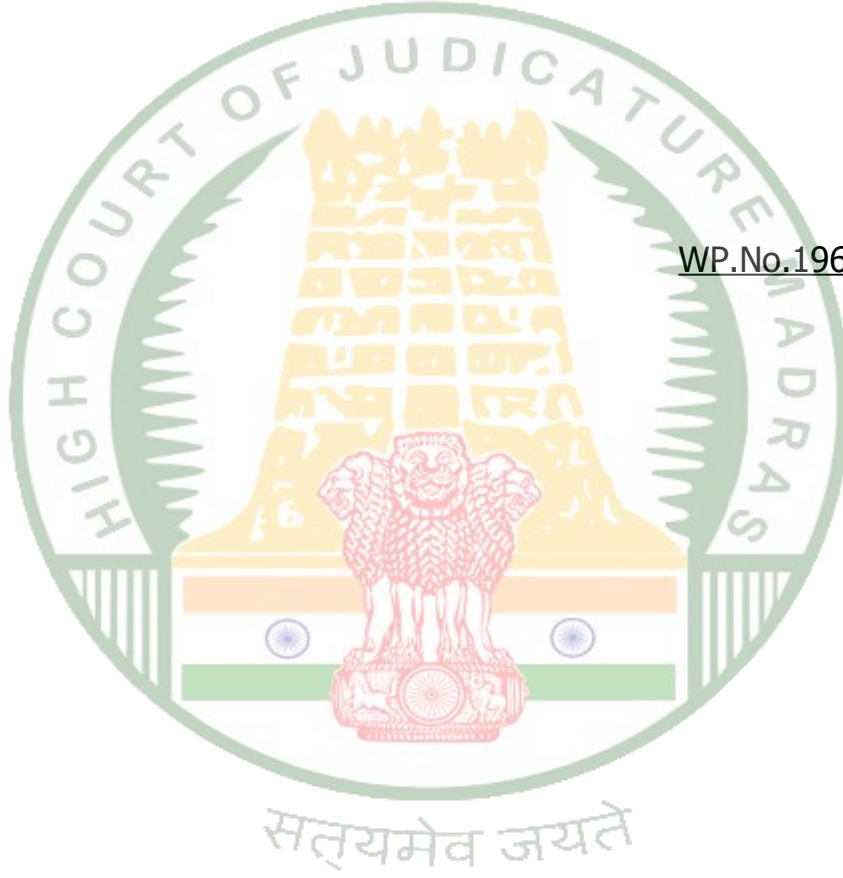
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To

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**M.SATHYANARAYANAN,J.
And
N.SESHASAYEE,J.**

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