

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2017

CORAM :

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

W.P.No.35921 of 2015
and
M.P.No.1 of 2015

Sri Chenna Malleswarar and
Sri Chenna Kesava Perumal Devasthanam,
rep. by its Hereditary Trustee
Mr.Dr.R.Srinivasan, M.D.S.,
Devaraja Mudali Street,
Chennai-600 003. Petitioner

-Vs-

1. The Government of Tamil Nadu,
rep. by its Secretary,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Commissioner,
Corporation of Chennai,
Chennai-600 003.
3. The Assistant Commissioner,
Zone - V, Corporation of Chennai,
Chennai-600 003.
4. The Executive Engineer,
D.P.RTC (North)
Chennai Corporation,
Division No.49, Unit No.14, Mandalam No.5,
Chennai-600 003. Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records relating to the impugned order in Letter No.10384/UD-VI (1)/2015-3 dated 09.10.2015 of the first respondent and quash the same.

For Petitioner : Mr.S.D.Ramalingam
For Respondent : Mr.T.N.Rajagopalan
Special Government Pleader
for R1

Mr.R.Arunmozhi for R2 to R4

ORDER

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

The petitioner seeks to impugn the order dated 09.10.2015 passed by the Appellate Authority dismissing the appeal filed by the petitioner.

2. The petitioner is the Devasthanam and the institution of the litigation is through its Hereditary Trustee. It is the case of the petitioner that they had carried out the renovation in respect of the building and no fresh construction was made.

3. A perusal of the impugned order shows that when the appeal was listed for hearing, an adjournment was sought stating that the Executive Officer of the temple was busy in the Budget Demand of the Tourism Culture and Religious Endowments Department being presented on the floor of the Assembly. But the Appellant Authority opined that there is no role of the Executive Officer for the said purpose.

4. In so far as the building is concerned, it has been opined that since no permission was obtained for renovation of the building, the absence of specific permission would be fatal.

5. We had directed vide our last order dated 09.11.2016 that an inspection should be caused to be made by the Corporation/respondent Nos.2 to 4 and the result of the same has been placed before us through an affidavit affirmed by respondent No.3.

6. On inspection of the building on 30.11.2016, it has been found that the allegation of the petitioner is correct that the building was a renovated one. But the plea raised is that the renovation is without any planning permission. Despite our repeated queries to the learned counsel for the Corporation as to what is that the petitioner would be required to do now, there is no answer.

7. We are, thus, of the view that the Corporation should inform the petitioner as to what is the requirement to be

fulfilled now that the renovation has been made without prior permission, and on such information being furnished, the petitioner will take necessary steps within a month thereafter to fulfill its obligations.

8. In the aforesaid circumstances, the impugned order is set aside and the writ petition is allowed. No costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Commissioner,
Corporation of Chennai,
Chennai-600 003.
3. The Assistant Commissioner,
Zone - V, Corporation of Chennai,
Chennai-600 003.
4. The Executive Engineer,
D.P.RTC (North) Chennai Corporation,
Division No.49, Unit No.14, Mandalam No.5,
Chennai-600 003.

+1cc to Mr.R.Arunmozhi, Advocate, S.R.No.388
+2cc's to Mr.S.D.Ramalingam, Advocate, S.R.No.565
+1cc to the Government Pleader, S.R.No.815

W.P.No.35921 of 2015

RJ(CO)
CA(11/01/2017)