

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

Writ Petition No.26864 of 2016

Mr. Sampathraj Ranka

..

Petitioner

Vs.

The Executive Engineer,
Town Planning Approval Section,
Regional Office Center,
Great Chennai Corporation,
No.36G, Pulla Avenue,
Shenoy Nagar, Chennai-600 040

..

Respondent

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 Respondent's order dated 02.05.2016 in W.D.C.No.T.P.PPA/WDCN06/00973/2016 and quash the same and consequently direct the respondent to consider the petitioner's application dated 17.02.2016 in accordance with law within the time frame fixed.

For Petitioner

..

Mr.K.Seetha Ram

For Respondent

..

Mr.K.J.Sivakumar,
Govt. Advocate

ORDER

The petitioner made an application for planning permission on 17.02.2016. The application made was rejected by the impugned order on two grounds. The first ground was that the Release Deed relied upon by the petitioner, though registered wayback in the year 2004, it was not done through a registered Power of Attorney executed by the Release Deed on 25.08.2004. The second ground was that the site address differs.

2. The learned counsel appearing for the Petitioner would submit that the second ground mentioned in the impugned order would be rectified. The Power of Attorney was issued wayback in the year 2004 by the members of the family in favour of the petitioner and his brother. Pursuant to the said document, the

release deed, itself was executed on 31.08.2004. Therefore, the question of registering the Power deed does not arise. Now based upon the Notification of the Registration Department dated 30.11.2012, which makes such registration is mandatory, the impugned order has been passed.

3. This Court finds considerable force in the submission made by the learned counsel for the petitioner. Admittedly, the Release Deed was executed as early as in the year 2004, i.e., nearly 12 years ago and that time there was no restriction to compulsorily register the Power Deed. Therefore, as rightly submitted by the learned counsel for the petitioner that the restriction imposed by the impugned Notification cannot be applied to the document which was already registered more than a decade ago and it cannot be retrospective effect.

4. In such view of the matter, the impugned order is set aside and the petitioner is at liberty to represent the application for planning commission within the period of two weeks from the date of receipt of a copy of this order, after complying with the second ground mentioned the impugned order. On receipt of the same, the respondent shall consider it on merits and do the needful within the further period of six weeks thereafter.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

ksa

To

The Executive Engineer,
Town Planning Approval Section,
Regional Office Center,
Great Chennai Corporation,
No.36G, Pulla Avenue,
Shenoy Nagar, Chennai-600 040

+1cc to Mr.K.Seetharaman,Advocate sr.18372

W.P.No.26864 of 2016

scd(co)
ss(10/4/2017)