

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM:

The Hon'ble Mr. Justice S.VAIDYANATHAN

Writ Petition No.39149 of 2003

M/s.Prabhu Ramachandra
and Associates,
Rep. by its Managing Partner,
M.G.Ramachandra,
No.60, (39), 2nd Main Road,
R.A.Puram,
Chennai600 028.

... Petitioner

vs.

Chennai Metropolitan Development
Authority,
Rep. by its Member-Secretary,
Thalamuthu Natarajan Buildings,
No.1, Gandhi Irwin Road,
Egmore,
Chennai600008
Respondent

..

Writ petition filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent in his letter No.Reg./B4/BC/5401/2001, dated 24.06.2002 and to quash the same and to direct the respondent to consider the regularisation applied for the petitioner on the revised application for regularisation under Receipt No.4778, dated 31.12.2000 for and revised Reg.No.17334.

For Petitioner

... Mr.A.Ramkumar
for Mr.AR.L.Sundaresan

For Respondent

... Mr.K.Raja Shrinivas

ORDER

The petitioner has come forward with the writ petition challenging the rejection order dated 24.06.2002 passed by the respondent.

2.The learned counsel for the petitioner submitted that the petitioner purchased the property measuring about 6 grounds of an extent of 2202 Sq.ft. bearing Door No.7, Pachaiyappa's Hostel Road, Chetpet, Chennai 600 031. The same has been acquired by the respondent department - CMDA under Chapter XX of the Income Tax Act, 1961. During the pendency of conveyance, the CMDA has issued No Objection Certificate, provided the plans are submitted to the Chennai Metropolitan Development Authority for development of the property in the name of the petitioner.

3.Hence, the petitioner submitted an application for regularisation of Ground + 6 floors at No.44, Pachaiyyappa College Hostel Road, Chennai 31 for approval of the respondent. The respondent - CMDA by their letter dated 07.07.1989, informed that the proposal of the petitioner for construction of the residential building at No.44, Pachaiyappa's Hostel Road, Chetput, Chennai, was examined and found approvable based on G.O.Ms.No.1516, Housing and Urban Development Department, dated 11.11.1988 and approved the planning permit for the period from 07.07.1989 to 06.07.1992. As the petitioner proceeded with the construction with deviation, the respondent refused planning permission and issued notice dated 09.02.1999 under Section 56 (2) Sub Clause (iii) of the Tamil Nadu Town and Country Planning Act, 1971 requesting the petitioner to discontinue the occupation of the premises, to enable them to carry out demolition in the premises. Thereafter, the respondent refused planning permission by letter dated 09.02.1999, as the developer proceeded with the construction with deviation. As against the same, the petitioner preferred an appeal and the same was rejected.

4.Under such circumstances, the Government issued G.O.Ms.No.76, Housing and Urban Development (UDI) Dept., dated 27.02.1999 for regularisation of the unauthorised/deviated constructions upto 28.02.1999 within Chennai Metropolitan area, subject to payment of regularisation fee and various other provisions. The respondent by their letter dated 06.04.1999, requested the petitioner to avail the opportunity for regularisation of his building under G.O.Ms.No.76, Housing and Urban Development (UDI) Dept., dated 27.02.1999. Hence, the petitioner produced certain documents and particulars for regularisation of Ground + 6 Floors under Section 113-A of the Tamil Nadu Town and Country Planning Act. But the respondent rejected the application submitted by the petitioner by their letter dated 21.06.2002 stating that on 07.09.2001, at

the time of inspection, only Ground + three Floors have been completed and the petitioner did not furnish the Plan in five copies. Hence, the petitioner is constrained to file the present writ petition.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. The learned counsel for the petitioner has submitted that the petitioner is entitled to regularisation as per the orders of the Government. The respondent erred in observing that at the time of inspection, only ground +3 floors was in existence. Though the petitioner constructed the building with Ground + six Floors and he submitted an application for the same, the respondent simply rejected the application of the petitioner. Therefore, the petitioner is eligible for planning permission as per the regularisation scheme. Hence, he requested this Court to allow the writ petition by directing the respondent to give planning permission to the petitioner.

7. Considering the submissions made by the learned counsel for the petitioner, this Court directs the respondent/Chennai Metropolitan Development Authority as to ascertain the doubts and facts about the request for planning permission and if any violation is found, it is open to Chennai Metropolitan Development Authority to initiate action to demolish the building. The person, who approaches the authority must produce sanctioned plan. However, this Court makes it clear that set back will have to be maintained. The demolition of the building should be completed within a period of thirty days from the date of receipt of a copy of this order, if there is any violation.

8. It is needless to state that if demolition work is not completed, the respondent/Chennai Metropolitan Development Authority shall take action against the officials concerned and impose capital punishment and enter the same in the service records, as these officials will be unfit to go up the ladder. If necessary, the Corporation of Chennai and police shall assist CMDA in the above demolition work, if any undertaken.

9. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

cla

To

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

2.The Commissioner
Corporation of Chennai
Chennai

+1 cc to Mr.K.Rajashrinivas Advocate sr 50328

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