

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN
W.P.No.9559 of 2018
and
W.M.P.No.11456 of 2018

B.R.Srinivasa Rao

... Petitioner

-Vs-

1. The Commissioner,
Greater Chennai City Municipal Corporation,
Ripon Buildings,
Chennai 600 030.
2. The Assistant Executive Engineer/u.21
Greater Chennai Corporation Zonal Office - VIII
2nd Cross Street (East) Pulla Avenue
Shenoy Nagar, Chennai 600 030. ... Respondents

Prayer:

Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent culminating in his notice no:Region Central/TPENF/559/2018 dated 13.04.2018, quash the same and to direct respondents to grant a fair and reasonable opportunity of being heard to the petitioner herein before taking proceedings as per law.

For Petitioner : Mr.Ragupathy
for Mr.V.S.Suresh

For Respondents : Mr.A.Nagarajan

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The petitioner is having property at Door No.36, Ponnar Kinaru Street, Villivakkam, Chennai 600 049. The said property was purchased by the petitioner's father and was subsequently settled in favour of the petitioner by settlement deed, dated 26.08.2008. The property is a combination of land and building. At the time of purchase itself the property was a constructed

house. However, after inspection on 12.04.2018, the 2nd respondent issued notice dated 13.04.2018, calling upon the petitioner to produce the approved plan within three days, failing which, it was informed that action will be taken against the petitioner. The said order is being challenged before this Court.

2. Heard Mr. Raghupathy, learned counsel appearing for the petitioner and Mr. A. Nagarajan, learned counsel, who takes notice on behalf of the 1st and 2nd respondents.

3. It is the duty of the petitioner to produce the approved plan, whenever it is sought for. The very purpose of issuing the impugned order is to call upon the petitioner to produce the approved plan. A perusal of the notice would disclose that only 3 days time has been given and it has not been made clear in the said notice as to what kind of action would be taken and what is the time limit that would be taken and what is the provision of law also. Therefore, the time given by the respondent is not a very reasonable one and the same has to be read as if 15 days time has been given. The petitioner is directed to produce the approved plan, if any, or give reply to the respondents, giving details of his contentions.

4. Only thereafter, based on the reply, appropriate proceedings have to be initiated against the petitioner or any party under Section 56 or 57 of the Town and Country Planning Act to remove the unlawful construction and consequential action. As the impugned order is not clear about the action to be taken, it is, therefore, appropriate to direct the respondents that hereinafter, while issuing such notice, in case of any unauthorised construction, calling upon the parties to either produce the approved plan or to give reply within 15 days, it should be called as Pre-notice under Section 56 of Town and Country Planning Act. Based on the reply or production of the approved plan, the respondents are directed to take action under Section 56 or 57 of Town and Country Planning Act as per law. Even in the pre-notice under Section 56, they have to mention about the action, which is going to be taken.

5. Therefore, the petitioner is permitted to give reply on or before 28.04.2018 and consequent orders will be passed within 30 days as per Section 56 of Town and Country Planning Act. Further the respondents are directed to pass appropriate orders depending upon the production of approval plan or reply under Section 56 or 57 of Town and Country Planning Act, whichever is applicable.

6. The Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai 9, is directed to issue

Circular, informing about the order passed by this Court and the necessity to comply with the order passed, if any action to be taken, in case of violation in the approved building plan.

7. Accordingly, this Writ Petition is disposed of. Consequently connected miscellaneous petition is closed. No costs.

8. Post the matter for reporting compliance, during 1st week of June 2018.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Chennai City Municipal Corporation,
Ripon Buildings,
Chennai 600 030.
2. The Assistant Executive Engineer,
Greater Chennai Corporation Zonal Office - VIII,
2nd Cross Street (East) Pulla Avenue,
Shenoy Nagar, Chennai 600 030.
3. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai-9

+2ccs to Mr.V.S.Suresh, Advocate in sr.no.28761

Copy To

The Section Officer,
Writ Section, High Court, Madras-104.

(for posting the matter on 1st Week of June 18)

W.P.No.9559 of 2018

NA(CO)
CS/30/05/18