

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.07.2018

C O R A M
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.8605 of 2009
and
M.P.No.1 of 2009

R.Rajesh

...Petitioner

Vs

1. The Managing Director,
Chennai Metropolitan,
Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chennai - 2.
2. The Executive Engineer,
Chennai Metropolitan,
Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chennai - 2.
3. The Member-Secretary
Chennai Metropolitan
Development Authority
Thalamuthu Natarajar Maaligai,
No.2, Gandhi Irwin Road,
Egmore, Chennai - 8.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents their subordinates or any one acting on their behalf to give regular Metro Water and Sewerage connection to the House, Ground and Premises Plot No.1385, Golden Colony, Mogappar, Chennai - 600 050 duly constructed by the petitioner without insisting for any production of completion certificate from CMDA.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.A.Arumugam for R1 & R2
Mr.P.Tamil Mani for R3

O R D E R

The petitioner prayed for Writ of Mandamus, directing the respondents their subordinates or any one acting on their behalf to give regular Metro Water and Sewerage connection to the House, Ground and Premises Plot No.1385, Golden Colony, Mogappara, Chennai - 600 050 duly constructed by the petitioner without insisting for any production of completion certificate from CMDA.

2. The case of the petitioner is that he built a house in Plot No.1385, Golden Colony, Mogappara, Chennai 600 050 which has been originally acquired by the petitioner by means of settlement deed dated 16.01.2006 duly registered at the Sub Registrar Office, Konnur as Document No.367 of 2006 and he is in possession from that date onwards. He applied for a sanctioned plan for the construction of building and planning permission was also granted in Planning Permit No.189 of 2007 dated 08.02.2007 and the time limit for the construction being 3 years and it was expired on 07.02.2010. The construction is completed and the completion certificate has to be given by the C.M.D.A for the said building.

3. The property is assessed to property tax by the Ambattur Municipality and the annual value fixed is at Rs.3380/- and the half yearly tax is at Rs.274/- and the said tax had also been revised and the current tax payable is at Rs.343/- . Hence, the petitioner, after assessed the property for tax, applied the authorities for the issue of Metro Water Supply and Sanitary Connection and authorities have been asking about the particulars and as such the petitioner has furnished particulars. Even on receipt of such particulars, the first respondent has not considered the case of the petitioner.

4. The learned counsel for the petitioner would also contend that Rs.36,100/- was paid by the petitioner being the connection charges for water and sewerage at the rate of Rs.15,000/- each and similarly, advance tax at Rs.6,000/- and meter testing charges were also paid. The receipt issued by the authorities is dated 11.03.2008. Metro Water Supply and Sewerage Board had issued an intimation dated 04.02.2009 to the effect that a sum of Rs.420/- is payable for the second half year of 2009 and that being the case, the Metro Water and Sewerage Connection is delayed. Hence, a representation was issued to the first respondent dated 13.03.2009. The respondents have not considered the petitioner's representation and they have not given connection to his property and have rejected the representation on the ground that unless the completion certificate is produced, the same cannot be extended. Hence, the petitioner approached this Court and filed this Writ Petition.

5. The learned counsel for the petitioner would further submit that the respondents claim that in the absence of the completion certificate from C.M.D.A., they are not in a position to extend Metro Water and Sewerage Connection. Similarly placed persons filed a batch of Writ Petitions and the relief is extended to the litigants, by allowing those Writ Petitions. Hence, the petitioner's request for Metro Water and Sewerage connection has to be given without insisting for production of the completion certificate from C.M.D.A.

6. The learned counsel for the second respondent has filed a counter wherein it is submitted that the petitioner has demolished the old building and constructed new building. Due to demolition of the old building the sewer and water connection was disconnected by Board on 27.02.2008. He would also contend that the application given by the petitioner on 13.03.2008 for new sewer and water connection by paying necessary charges, was considered by the second respondent and found that the building construction work was not completed. Hence, he has sent a letter dated 19.03.2008 intimating that only after the construction was completed, the service connection would be provided. On 10.10.2008 the petitioner has given a reply that he could not complete the first floor construction due to financial burden and requested for service connections. In the meanwhile, it was brought to the notice of this respondent that a portion of the building in the first floor was demolished by Ambattur Municipality due to violation of the building rules. Hence, the second respondent sent another letter to the petitioner on 16.10.2008 requesting him to furnish the details for the building demolition by Ambattur Municipality and any other legal issues pending in the Court related to the said construction. The petitioner had given a reply on 13.03.2009 stating that Ambattur Municipality on suspicion of violation of rules and pressure from the neighbours demolished a portion of the building without any notice, for which a separate case is going on. Hence, he cannot sought for the sewer and water connection from the respondent/board. On 26.02.2008, the second respondent has sent a letter asking to furnish the copy of the new assessment of the property tax and to provide Rain Water Harvesting arrangements made to the building for taking further action. Since there was no reply from the petitioner, the second respondent sent letters to the Commissioner, Ambattur Municipality requesting to inform whether there is any objection from the Municipality to provide the sewer and water connections to the petitioner's premises. The said Ambattur Municipality has given objection dated 03.06.2010 to give sewer and water connections to the petitioner's premises due to deviation in building construction from the permitted plan.

6. The learned counsel for the second respondent would also contend that the petitioner now submits that he has completed the construction and has approached this Court for getting Sewer and Water connection. The second respondent did not give sewer and water connection to the petitioner's premises due to the following reasons:

- (i) The building construction is incomplete.
- (ii) Rain Water Harvesting structures not provided.
- (iii) Objection given by the erstwhile Ambattur Municipality due to deviation in the building construction.

7. The learned counsel for the second respondent would further contend that even though the petitioner has got sanctioned plan from Ambattur Municipality for demolition of the old building of 106 M² and for construction of new building ground + 1 floor of 299 M² vide B.P.No.59106/F1, Dated 08.02.2007, the building construction in the ground floor has been completed and the first floor construction is incomplete and Ambattur Municipality has also demolished a portion of the building in the first floor and hence, the Ambattur Municipality has not yet made the assessment for the new building of the petitioner. For the petitioner's representation dated 13.03.2009, a reply letter was sent by the second respondent on 26.03.2009 asking to furnish the copy of the new assessment of property tax and to provide Rain Water Harvesting arrangement to the building for taking further action. But no reply has been received from the petitioner. Hence the learned counsel for the respondents 1 & 2 would submit that the petitioner has not complied with the request sent by the second respondent and sought for dismissal of this Writ Petition.

8. Even though the completion certificate from C.M.D.A has not produced, it is seen that the plan has been approved by the erstwhile Ambatuur Minicipality and the respondent only asking for assessment order passed by the Municipal Authority or Greater Corporation of Chennai.

9. In view of the above facts and circumstances, the petitioner is directed to produce assessment of property tax order either from the Municipality or Greater Chennai Corporation to the respondents. At this juncture, the learned counsel for the petitioner prays this Court that the respondents may be directed to consider and pass orders in this regard within a period of four weeks from the date of receipt of completion certificate of the building and the assessment order.

10. Accordingly this writ petition is disposed of. The petitioner is directed to produce all the relevant documents along with the copy of this order to the second respondent and the second respondent is directed to consider the same and pass orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dh

To

- 1.The Managing Director,
Chennai Metropolitan,
Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chennai - 2.
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Thalamuthu Natarajar Maaligai,
No.2, Gandhi Irwin Road,
Egmore, Chennai - 8.

+1cc to Mr. P.Tamilmani, Advocate, S.R.No.50494
+1cc to Mr. A.Arumugam, Advocate, S.R.No.51153

Writ Petition No.8605 of 2009
and
M.P.No.1 of 2009

EV(CO)

rrs 15/02/2019