

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.28814 of 2018
and
W.M.P.No.33674 of 2018

N.A.Ramanathan

... Petitioner

Vs.

- 1.Government of Tamil Nadu rep. by
the Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
- 2.Chennai Metropolitan Development Authority,
rep. by its Member Secretary,
Gandhi Irwin Road, Egmore,
Chennai - 600 008.
- 3.The Greater Chennai Corporation by its
Commissioner, Rippon Buildings
Chennai - 600 003.
- 4.The Greater Chennai Corporation,
rep. by its Executive Engineer,
Zone XV, Sholinganallur,
Chennai - 600 119.
- 5.The Greater Chennai Corporation,
rep. by its Assistant Executive Engineer,
Unit-45, Sholinganallur,
Chennai - 600 119.
- 6.The Greater Chennai Corporation,
rep. by its Junior Engineer,
Division 194, Sholinganallur,
Chennai - 600 119.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 4, 5 and 6 from initiating any coercive action of locking and sealing and demolition or any other consequential action on the premises bearing No.231/71, OMR Food Street (Rajiv Gandhi Salai), Okkiam Thoraipakkam, Chennai - 600 097, pending disposal of the regularization application of the petitioner's plot under Registration

No.CMDA/P/0007194/2017 and No.CMDA/P/0007195/2017 dated 13.10.2017 in respect of the petitioner's premises in Survey No.213/71C and 213/71B pending with the 2nd respondent herein.

For Petitioner : Mr.K.V.Babu

For Respondents : Mr.R.Udhayakumar,
Additional Government Pleader
for R1

Mrs.R.Arunmozhi,
Corporation for R3 to R6

Mr.S.Thiruvengadam,
CMDA for R2

O R D E R

(Order of the Court was made by R.SUBRAMANIAN, J.)

1.The prayer in the writ petition is as follows:-

To issue a Writ of Mandamus forbearing the respondents 4, 5 and 6 from initiating any coercive action of locking and sealing and demolition or any other consequential action on the premises bearing No.231/71, OMR Food Street (Rajiv Gandhi Salai), Okkiam Thoraipakkam, Chennai - 600 097, pending disposal of the regularization application of the petitioner's plot under Registration No. CMDA / P / 0007194 / 2017 and No.CMDA / P / 0007195 / 2017 dated 13.10.2017 in respect of the petitioner's premises in Survey No.213/71C and 213/71B pending with the 2nd respondent herein.

2. Since the Authorities found that the structure erected by the petitioner was an un-authorized construction without planning approval, a lock and seal notice was issued on 06.02.2017. The petitioner responded to the said notice with a reply on 27.02.2017. This was followed up by the petitioner by way of an appeal to the 1st respondent dated 12.03.2017. Even before filing the appeal, de-occupation notices were issued by the Chennai Metropolitan Development Authority/ 2nd respondent on 07.03.2017.

3. Thereafter, the petitioner filed WP.No.6475 of 2017 in this Court seeking a writ of mandamus forbearing the 2nd respondent from initiating any coercive action of locking and sealing and demolishing of the structure in question.

4. A Division Bench of this Court by its order dated 16.03.2017 directed the 1st respondent to consider the appeal

filed by the petitioner and pass appropriate orders thereon after offering an opportunity of hearing to the petitioner within three (3) months from the date of receipt of a copy of the order. Thereupon the 1st respondent, Secretary to Government of Tamil Nadu, Housing and Urban Development Department rejected the appeal filed by the petitioner by his order dated 11.07.2017. After the disposal of the appeal by the Secretary to Government, the petitioner sought for a review of the order by his letter dated 02.08.2017 and the same was also rejected by the 1st respondent on 17.10.2018.

5. The present writ petition is filed claiming that the petitioner has sought for regularization of the plot under GO.Ms.No.78, Housing and Urban Development Department dated 04.05.2017 and pending such regularization the Authority should be restrained from taking any action under the relevant planning laws.

6. We do not find any merit in the writ petition, admittedly, the structure put up by the petitioner is an unauthorized structure constructed without planning permission. The appeal filed by the petitioner before the appropriate Authority viz., 1st respondent against the de-occupation notice issued by the 2nd respondent/ planning Authority has also been rejected. The petitioner cannot now seek to take advantage of the regularization scheme which was introduced by the Government under GO.Ms.No.78 which was meant for regularizing unauthorized layouts.

7. Hence, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

8. The petitioner has filed an affidavit undertaking to remove the structure put up by him by 30th November 2018. The said undertaking affidavit is taken on record and the petitioner is directed to remove the unauthorized construction by 30.11.2018. It is made clear that in the event of failure on the part of the petitioner to abide by the undertaking affidavit filed by him today, the Authorities will be free to take further action to demolish the illegal construction.

Dsa

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Government of Tamil Nadu rep. by
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road, Egmore,
Chennai - 600 008.

3.The Commissioner,
Greater Chennai Corporation
Rippon Buildings,
Chennai - 600 003.

4.The Executive Engineer,
Greater Chennai Corporation,
Zone XV, Sholinganallur,
Chennai - 600 119.

5.The Assistant Executive Engineer,
Greater Chennai Corporation,
Unit-45, Sholinganallur,
Chennai - 600 119.

6.The Junior Engineer,
Greater Chennai Corporation,
Division 194, Sholinganallur,
Chennai - 600 119.

- 1 cc to Mr.K.V.BABU,Advocate Sr 75958
- 1 cc to M/s.R.Arunmozhi, Advocate Sr 76053

KR/15/11/18

W.P.No.28814 of 2018

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