

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.2825 of 2019

and

W.M.P.Nos.3086 & 3089 of 2019

1. Dr.A.Susila
 2. Dr.A.Ahamed Rafi
 3. Dr.A.Mohamed Riaz
- ... Petitioners

Vs.

1. Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
No.1, Gandhi Irwyn Road,
Egmore, Chennai - 600008.
 2. The Greater Chennai Corporation
Rep. by its Commissioner,
Ripon Building,
Chennai - 600003.
 3. The Greater Chennai Corporation
Rep. by its Executive Engineer
Works Department
Ripon Building,
Chennai - 600003.
 4. Tamil Nadu Housing Board,
Rep. by its Chairman/Managing Director,
Nandanam, Chennai - 600035.
- ... Respondents

Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent relating to their demand notices vide WDC.No.A7/11/705/2017, WDC.No.A7/11/715/2017 & WDC.No.A7/11/529/2017 dated 12.07.2018 on the petitioners application dated 16.08.2017 on the application for regularization of individual plots No.26 & 27, West Kamakodi Nagar, Valasarawakkam, Chennai - 87, land measuring 5600 sq.ft comprised in New Survey No.62/13, 62/14 & 62/15, Old Survey Nos.62/2A, 62/2B and 62/2 situated at Valasarawakkam Village, Maduravoyil Taluk, Tiruvallur District and quash the same insofar as the demand of "No Objection Certificate" to be

obtained from the fourth respondent is concerned and direct the respondents 1 to 3 to consider the above said regularization application expeditiously and in accordance with law.

For Petitioners : Mr.D.S.Rajasekaran

For R1 : Mrs.Veena Suresh

For R2 & R3 : Mrs.Karthika Ashok

For R4 : Mr.M.Baskar

ORDER

This Writ Petition has been filed challenging the order of the third respondent dated 12.07.2018, demanding "No Objection Certificate" from the petitioners to be obtained from the fourth respondent, and seeking for a direction, directing the respondents 1 to 3 to consider the regularization application dated 16.08.2017 of the petitioners.

2. According to the learned counsel for the petitioners, the third respondent, being an authority under a statute, refused to perform their statutory function and passed an impugned order by directing the petitioners to obtain "No Objection Certificate" from the fourth respondent and therefore, the impugned order is liable to be quashed.

3. The learned counsel for the respondent corporation would submit that the petitioners filed an application to the respondent corporation seeking regularization of unapproved plots. The first respondent has formulated certain guidelines vide Letter No.Reg.Layout/3284/2017 dated 13.04.2018 to the second respondent with regard to the processing of the regularization applications with respect to the unapproved layout. In the said letter, there is a specific instruction in Paragraph 4 (vii) that the applicant has to obtain "No Objection Certificate" from the fourth respondent before regularization has been dealt with. Based on the said instructions, the respondent corporation has insisted the petitioners to obtain "No Objection Certificate" from the Tamil Nadu Housing Board. Therefore, this Writ Petition is liable to be dismissed.

4. The respondent corporation has also filed a counter affidavit denying the allegations of the petitioners.

5. According to the fourth respondent, challenging the order dated 08.10.1991 in W.P.No.3693 of 1986 (41 Batch cases), the Secretary of the Tamil Nadu Housing Board, preferred Writ Appeal No.1130 of 1997 before this Court and the same was allowed in favour of the Board on 21.12.2004. The petitioners have sought for "No Objection Certificate" based on the aforesaid Writ Petition and they cannot claim any remedy based on the above order dated 08.10.1991 passed in W.P.No.3693 of 1986, as the Writ Appeal preferred challenging the same was allowed in favour of the board.

6. However, the subject matter of this Writ Petition is challenging the impugned order dated 12.07.2018 of the respondent corporation with regard to obtain "No Objection Certificate" from the fourth respondent. Therefore, in the light of the Letter No.Reg.Layout/3284/2017 dated 13.04.2018 issued by the first respondent to the second respondent, this Writ Petition is liable to be dismissed, as the petitioners are not entitled to seek for regularization of plots without obtaining "No Objection Certificate" from the fourth respondent.

7. In view of the above, this Writ Petition is dismissed with liberty to challenge the letter dated 13.04.2018 issued by the first respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwyn Road,
Egmore, Chennai - 600008.

2. The Commissioner,
Greater Chennai Corporation
Ripon Building,
Chennai - 600003.

3. The Executive Engineer,
Greater Chennai Corporation
Works Department
Ripon Building,
Chennai - 600003.

4. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600035.

+1 cc to Mr.D.S.Rajasekaran, Advocate, S.R.No.33033

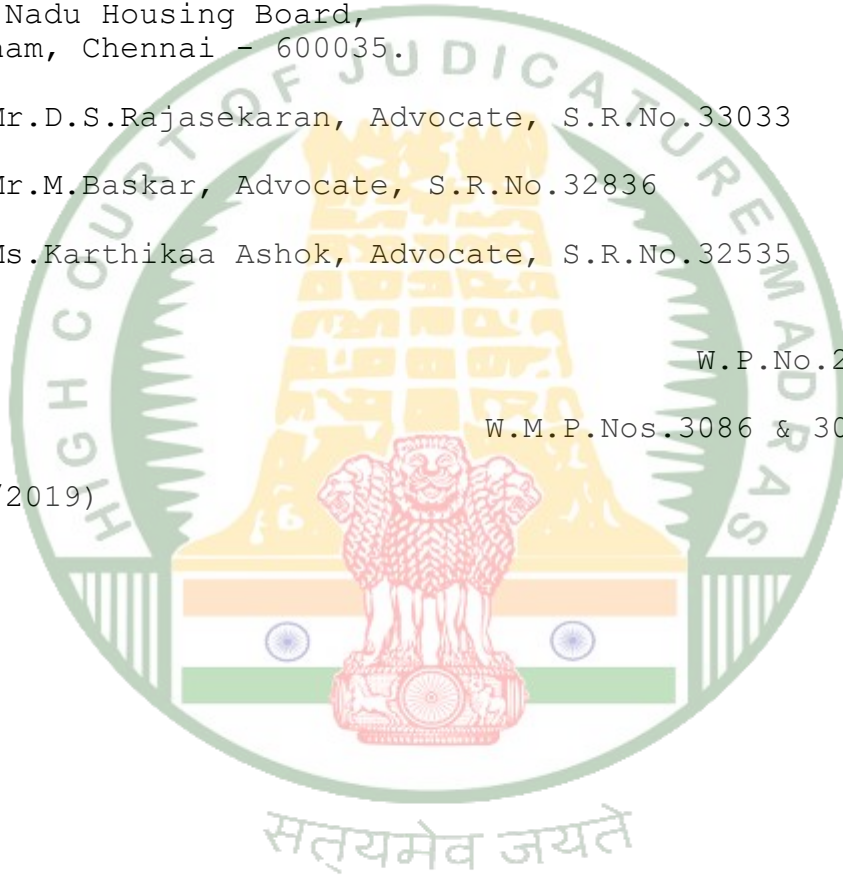
+1 cc to Mr.M.Baskar, Advocate, S.R.No.32836

+1 cc to Ms.Karthikaa Ashok, Advocate, S.R.No.32535

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and

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CP(CO)
SSM(25/06/2019)



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