

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.2835 of 2019
and W.M.P.No.3096 of 2019

T.Sundhara Lingam

... Petitioner

Vs.

1. The Greater Chennai Corporation
Rep. by its Commissioner,
Ripon Building,
Chennai - 600003.
2. The Greater Chennai Corporation
Rep. by its Executive Engineer
Works Department
Ripon Building,
Chennai - 600003.
3. 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 second respondent relating to their proceeding vide demand advice W.D.C.No.RL/WDCN11/02759/2018 dated 13.10.2018 in the application for regularization of individual plot in Plot No.6, Survey No.497/1A1A1A, Ganapathy Nagar, Maduravoyal, Chennai - 600 089 and quash the same with respect of demand of 'No Objection Certificate' to be obtained from the third respondent and direct the first and second respondents to consider the application for approval of Plot and Building expeditiously in accordance with law.

For Petitioner : Mr.D.S.Rajasekaran

For R1 & R2 : Mrs.Karthika Ashok

For R3 : Mr.M.Baskar

ORDER

This Writ Petition has been filed challenging the order of the second respondent dated 13.10.2018, demanding "No Objection Certificate" from the petitioner to be obtained from the third respondent, and seeking for a direction, directing the respondents 1 and 2 to consider the regularization application of the petitioner.

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

3. The learned counsel for the respondent corporation would submit that the petitioner filed an application to the respondent corporation seeking regularization of unapproved plot. Chennai Metropolitan Development Authority has formulated certain guidelines vide Letter No.Reg.Layout/3284/2017 dated 13.04.2018 to the first 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 third respondent before regularization has been dealt with. Based on the said instructions, the respondent corporation has insisted the petitioner to obtain "No Objection Certificate" from the Tamil Nadu Housing Board. Therefore, this Writ Petition is liable to be dismissed.

4. According to the third 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 petitioner has sought for "No Objection Certificate" based on the aforesaid Writ Petition and he 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.

5. However, the subject matter of this Writ Petition is challenging the impugned order dated 13.10.2018 of the respondent corporation with regard to obtain "No Objection Certificate" from the third respondent. Therefore, in the light of the Letter No.Reg.Layout/3284/2017 dated 13.04.2018 issued by Chennai Metropolitan Development Authority, this Writ Petition is liable to be dismissed, as the petitioner is not entitled to

seek for regularization of plot without obtaining "No Objection Certificate" from the third respondent.

6. In view of the above, this Writ Petition is dismissed with liberty to challenge the letter dated 13.04.2018 issued by the Metropolitan Development Authority, Chennai. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Commissioner,
Greater Chennai Corporation
Ripon Building,
Chennai - 600003.
2. The Executive Engineer,
Greater Chennai Corporation
Works Department
Ripon Building,
Chennai - 600003.
3. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600035.

+1 cc to Mr.D.S.Rajasekaran, Advocate, S.R.No.33032

+1 cc to Mr.M.Baskar, Advocate, S.R.No.32837

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W.P.No.2835 of 2019
and
W.M.P.No.3096 of 2019

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