

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.11322 of 2018 and
W.M.P.Nos.13221 of 2018 and 7838 of 2019

T.Saravanan

.. Petitioner

v.

- 1 The Principal Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai - 600 009
- 2 M.Sivashanmugam
M. Planning Additional Secretary to
Government (Technical)
Housing and Urban Development Department
Secretariat, Chennai - 600 009
- 3 The Member Secretary
The Chennai Metropolitan Development Authority
No. 1, Gandhi Erwin Road
Thalamuthu Natarasar Malaigai, Egmore
Chennai - 600 008
- 4 The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai - 600 003
- 5 A. Marimuthu .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order in Letter No. 16513 / UD-VI(1)/2017-1, dated 07.11.2017 on the file of the second respondent and quash the same and consequently direct the respondents to implement the orders of the High Court in W.P. No. 12812 of 2012, dated 05.07.2017.

For Petitioner : Mr.K.Mohanamurali

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) - for R1 & R2
Mrs. Veena Suresh - for R3
Mr.V.C.Selvasekaran - for R4
Mr.V.Lakshmi Narayanan - for R5

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition as Public Interest Litigation to issue a Writ of Certiorari Mandamus to call for the records pertaining to the impugned order dated 07.11.2017 on the file of the 2nd respondent, to quash the same and consequently direct the respondents to implement the orders of this Court made in W.P. No. 12812 of 2012, dated 05.07.2017.

2. It is the case of the petitioner that the 5th respondent has filed a Writ Petition in W.P.No.12812 of 2012 to quash the Government Order in G.O.(3D) No.76, dated 26.04.2017 and to direct the authorities to remove the Lock and Seal. The said Writ Petition was dismissed on 05.07.2017. The unauthorized commercial building was locked and sealed by the respondents on 12.05.2017. The 5th respondent approached the 2nd respondent under section 80-A of the Town and Country Planning Act and by order dated 07.11.2017, the building was directed to be de-sealed with a direction to file regularization application. The 5th respondent filed an application before the 2nd respondent praying to recall the impugned order dated 07.11.2017. The petitioner contended that though he had participated in the personal hearing on 12.12.2017, no order has been passed by the 2nd respondent so far.

3. The 3rd respondent in their additional counter affidavit, dated 07.01.2019, has stated that notice was sent to the 5th respondent and he appeared for personal hearing on 25.07.2018 and that during the course of enquiry, the 5th respondent agreed to rectify the building by removing the 0.1 mts. on the southern side, which was already made in his representation to Chennai Metropolitan Development Authority, dated 06.07.2018. The 3rd respondent has also stated that the request for de-sealing the premises was examined and the building was de-sealed on 04.10.2018, for rectification within a period of 4 weeks, to make it qualifies under Regularization Scheme 113C of the Tamil Nadu Town and Country Planning Act and for furnishing the documentary evidence to show the building was constructed and is in existence prior to 01.07.2007. The 3rd

respondent has also stated that the site under reference was inspected on 16.10.2018 and found that in compliance of the orders of this Court, the 5th respondent has carried out the rectifications in the site on the southern side by chipping the brick wall by 0.10 m. Now the setback on the southern side from brick wall measured as 1.50 m.

4. Since the 3rd respondent had taken steps as per the orders passed by this Court in W.P.No.12812 of 2017, no further direction need be issued to the official respondents. That apart, the 5th respondent was directed to comply with the order dated 07.11.2017 passed by the 2nd respondent, which according to the 3rd respondent, the 5th respondent had complied with.

5. In view of the same, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-Insp.Cell)

//True copy//

Sub Assistant Registrar

Rj

To

- 1 The Principal Secretary to Government
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Chennai - 600 008
- 4 The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai - 600 003

+3cc to Mr.K.Mohanamurali, Advocate SR.No.31474

+1cc to Mr.V.Raghavachari, Advocate SR.No.31881

+1cc to Mr.P.Veenasuresh, Advocate SR.No.31925

+1cc to Government Pleader SR.No.31957

W.P. No.11322 of 2018 and
W.M.P.Nos.13221 of 2018 and 7838 of 2019

SPD (CO)
GMY (25/04/2019)



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