

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.3112 of 2021
and W.M.P.No.3529 of 2021

L.Arokiya Doss ... Petitioner

Versus

- 1.The Secretary to Government
Housing and Urban Development,
Fort.St.George,
Chennai 8.
 - 2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai 600 003.
 - 3.The Assistant Engineer,
Greater Chennai Corporation,
Division-173,
Kamarajar Salai, Raja Annamalaipuram,
Raja Annamalaipuram,
Chennai 600 028.
 - 4.The Assistant Executive Engineer,
Unit-40, Greater Chennai Corporation,
L.B.Road, Chennai 20.
 - 5.The Executive Engineer,
Zone-13, Greater Chennai Corporation,
L.B.Road, Chennai 20.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to number the petitioner's appeal dated 05.01.2021 and consequently direct the 1st respondent to dispose of the petitioner's Appeal within a time frame fixed by this Court.

For Petitioner : Mr.G.Mutharasu

For RR1 : Mr.R.Vijayakumar
Additional Government Pleader

For RR 2 to 5 : Mr.K.Raja Shrinivas
Standing Counsel (Corporation)

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner claims that he is in lawful occupation of the premises bearing D.No.13/15, Karikalan Street, Raja Annamalaipuram, Chennai 600 028 and it is originally belongs to one Sri Audikesava Perumal Peyalwar Devasthanam and alleging that he has put up an unauthorised construction, Locking Sealing and Demolition Notice dated 03.01.2019, came to be issued and challenging the same, he filed a Special Revision / Appeal dated 21.01.2019, before the 1st respondent and it was disposed of on 14.11.2019, by granting three months time to the petitioner to obtain necessary planning permission for the said building and till such time deferred the enforcement of the notice.

2. The learned counsel appearing for the petitioner would submit that in pursuant to the liberty granted, the petitioner has submitted an application for Planning Permission, in respect of the construction already put up, before the official respondents concerned and the same is pending consideration and he would further add that it would be sufficient to direct the 1st respondent to consider and dispose of the Special Revision / Appeal, on merits and in accordance with law, within a stipulated time frame.

3. Mr.Raja Srinivas, learned Standing Counsel appearing for the respondents 2 to 5, on instructions, would submit that the petitioner claims to be a tenant under Sri Audikesava Perumal Peyalwar Devasthanam and the construction put up by him on the land belongs to the said Temple, is wholly unauthorised and as such appropriate action has been taken in accordance with law. Insofar as the application for Planning Permission is concerned, it is the submission of the learned Standing Counsel appearing for the respondents 2 to 5 that unless the Temple, who is the owner of the land gives no objection, it cannot be considered at all and it is for the petitioner to workout his claim with the said Temple.

4. Mr.R.Vijayakumar, learned Additional Government Pleader appearing for respondents 2 to 5 would submit that the Special

Revision / Appeal filed by the petitioner, which is pending consideration before the 1st respondent would be given disposal as expeditiously as possible.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. This Court, taking into consideration the limited scope of prayer sought for by the petitioner and without going into the merits of the claim, projected by the petitioner, either in the Special Revision / Appeal, or in this Writ Petition, directs the 1st respondent to put Sri Audikesava Perumal Peyalwar Devasthanam, on notice and thereafter, consider and dispose of the appeal / Special Revision, pending before them, in accordance with law, as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order / uploading of the order in the Website and till such time, the respondents 3 and 5 shall defer further decision. It is also made clear that the petitioner till the disposal of the appeal / special revision by the 1st respondent, shall not create any third party right in respect of the land and superstructure in question.

7. The Writ Petition is disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
Housing and Urban Development,
Fort.St.George,
Chennai 8.

2.The Commissioner,
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3.The Assistant Engineer,
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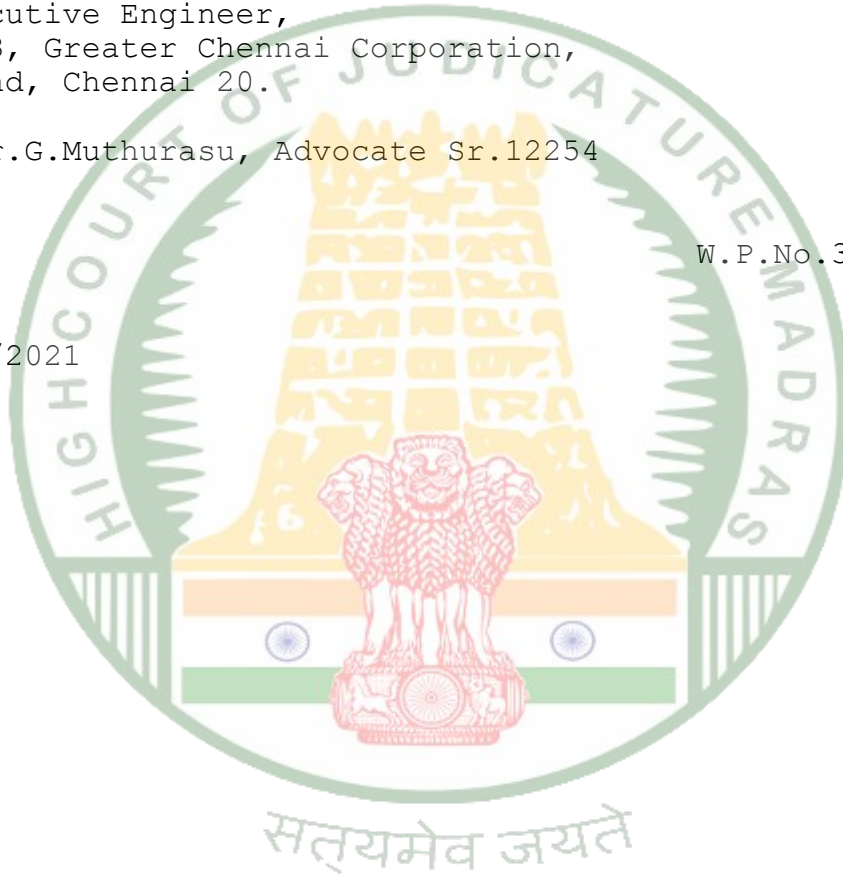
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+1cc to Mr.G.Muthurasu, Advocate Sr.12254

W.P.No.3112 of 2021

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srg 25/03/2021



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