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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P. No. 5369 of 2021
and
W.M.P.No.5962 of 2021

C.Bosco

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep., by its Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai-600 008.
- 3.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai-600 003.
- 4.The Executive Engineer,
Corporation of Chennai,
Regional Office - Central,
2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 2nd respondent to regularize the petitioner's building vide application CMDA/Reg-113C/133/2017 dated 19.12.2017 as per 1st respondent's order in Letter No.17407/UD-VI(2)/2016-3, dated 07.10.2016 and in light of the Judgment passed by the Division Bench of this High Court in W.P.No.27767 of 2018 within a time fixed by this Court.

For Petitioner : Mr.R.Gunaalan

For R1 : Mr.P.Balathandayutham
State Government Counsel



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For R2 : Mr.P.Veena Suresh
Standing Counsel

For RR3 & 4 : Mr.K.Raja Srinivas,
Senior Standing Counsel

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The Petitioner had purchased the property measuring an extent of 1200 square feet along with building, having plinth area of 500 square feet vide Document No.2702 of 2011 dated 19.12.2011. Thereafter, the Petitioner is in possession of the property and he had let out the property to a third party/tenant to run a restaurant. Whiles, the Fourth Respondent issued a notice dated 17.09.2014 to the Petitioner's tenant, calling upon him to produce the approved plan in respect of the said premises. Subsequently, a detailed reply was given by the Petitioner and thereafter, de-occupation notice dated 28.04.2015 was issued vide No.Regioncentral/TPENF/0534/2015 by the Fourth Respondent. The said notice was challenged before this Court in Writ Petition Nos. 31381 and 31382 of 2016 and this Court vide common order dated 14.09.2016 disposed of the Writ Petitions and directed the Petitioner to file a Revision within a period of 15 days from the date of receipt of a copy of that order before the Appellate Authority under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971. Thereafter, the First Respondent passed an order on 07.10.2016 to de-seal the premises for a period of six months to carry out rectification works in the premises, subject to furnishing of an undertaking that during the period of de-sealing, the premises shall not be used for occupation purpose. After de-sealing, rectification works have been carried out and a possible 10 feet front set back has been effected as per the order of the First Respondent dated 07.10.2016 and the Petitioner informed the authority about the completion of the rectification works. Thereafter, the Fourth Respondent re-inspected the premises on 17.04.2021 as per the directions of this Court dated 19.03.2021. The Petitioner availed the benefit under the Government Orders in G.O. Ms. Nos. 110 and 111 dated 22.06.2017 for examination of the building under Section 113-C of the Town and Country Planning Act, 1971 (Tamil Nadu Act, 1972).

2. Since the petitioner had already carried out the rectification works, he filed an Application to the Second Respondent via online on 19.12.2018 for regularizing the building, in the light of the order passed in W.P. No. 27767 of 2018. Since no action has been taken on the application, the



Petitioner has come before this Court.

3. Heard Mr. M.Devarajan, Learned Counsel for the Petitioner, Mr. P.Balathandayutham, Learned State Government Counsel appearing for the First Respondent, Mrs. P.Veena Suresh, Learned Counsel appearing for the Second Respondent and Mrs. K.Raja Srinivas, Learned Counsel appearing for the Third and Fourth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

4. It is evident from the records that the matter had already attracted many rounds of litigations. However, the Petitioner had already got an order from the First Respondent on 07.10.2016 to de-seal the premises and carry out the rectification works, as per the order of this Court. Further, the re-inspection was already made as per the order of this Court and application for regularization was also made. However, there is no approved plan available with regard to the Petitioner's premises. Based on the materials available on record and especially, the rectification works done by the Petitioner pursuant to the First Respondent's order dated 07.10.2016, it is appropriate to direct the Petitioner to file an application for approval and the Fourth Respondent to consider and pass orders on such application for approval, positively, since many rounds of litigations had already taken place and the Petitioner had also rectified the deviation.

5. Therefore, the Petitioner is directed to file an application for approval within a period of two weeks from the date of receipt of a copy of this order and thereafter, the Fourth Respondent shall process such application and do necessary acts for grant of approval within a period of six weeks.

6. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Maya
To

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



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

3.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai-600 003.

4.The Executive Engineer,
Corporation of Chennai,
Regional Office - Central,
2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

+1cc to Mr.R.Gunalan, Advocate, S.R.No.29167

+1cc to M/s.P.Veena Suresh, Advocate, S.R.No.29247

+1cc to the Government Pleader, S.R.No.29018

W.P. No. 5369 of 2021

PL(CO)
CB(22/07/2021)