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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

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

W.P. Nos. 11716 & 12065 of 2021
&
W.M.P. No.12839 of 2021

W.P. No. 11716 of 2021

D. Stephen

...Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
2. The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Executive Engineer,
Greater Chennai Corporation,
Zone XI, Valasaravakkam,
Chennai - 600 087.
4. D. Rufus
5. D. Albert

...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 3rd respondent by their letter Z.O.XI.C.No: A2/5639/2016 dt: 16.11.2016 to execute his STOP WORK NOTICE issued on 20.10.2016 against the action initiated for unauthorized construction at Door No. 4/45, New No. 5/110, Perumal Kovil Street, Nerkundram, Chennai - 600 107 in respect of the violation of CMDA Rules by the 4th and 5th respondents and take suitable action against them.



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For Petitioner :: Mr.V.P. Raju
For Respondents :: Mr.K. Raja Srinivas
for R1 & R3
Mr.Karthik Rajan for R2

W.P. No. 12065 of 2021

Rufus

...Petitioner

Vs.

1. The State rep. by
The Secretary to Government,
Housing and Urban Development
Department, Secretariat,
Fort St. George, Chennai - 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.
3. The Executive Engineer,
Town Planning,
Greater Chennai Corporation,
Zone XI, Valasaravakkam,
Chennai - 600 087.
4. The Assistant Executive Engineer,
Unit 33, Zone XI,
Greater Chennai Corporation,
Valasaravakkam,
Chennai 600 087.
5. The Assistant Engineer,
Division 145, Zone XI,
Greater Chennai Corporation,
Valasaravakkam,
Chennai - 600087.

...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st respondent to take up the stay petition filed in statutory appeal under Section 80-A of Tamil Nadu Town and Country Planning Act vide acknowledgement dated 13.05.2021 preferred against impugned notice dated 07.05.2021 bearing Notice No. Z.O-XI/DIV-145/002/2021 issued for Lock and Seal and demolition which was served to the petitioner on 12.05.2021.



stop work notice issued by the Corporation authorities dated 20.10.2016 (W.P. No. 11716 of 2021) and disposal of the stay petition filed in the appeal against lock and seal notice issued by the respondent Corporation (W.P. No. 12065 of 2021).

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7. It is evident that already stop work notice had been issued against D. Rufus and D. Albert, who are nephews of Stephen, the petitioner in W.P. No. 11716/2021. Further, based on the claim of the petitioner in W.P. No. 11716 of 2021 that the construction by private respondents is without any approved plan, pursuant to the admission of W.P. No. 11716 of 2021, action has been taken by issuing lock and seal notice on 04.06.2021, for which a reply has been submitted by the private respondents along with the approved plan. Therefore, it is for the official respondents to consider and proceed in accordance with law. W.P. No. 11716 of 2021 is disposed of accordingly. No costs.

8. As far as W.P. No. 12065/2021 is concerned, an appeal has been filed against the lock and seal notice issued by the respondent Corporation on 07.05.2021. In the said appeal under Section 80-A of Tamil Nadu Town and Country Planning Act, a stay petition has been filed. That stay petition is directed to be taken up and disposed of to safeguard the rights of the petitioner in W.P. No. 12065/2021.

9. Considering the fact that the petitioner and his family members are residing there, that the building is said to have been constructed in 2016 and stop work notice dated 20.10.2016 has been issued as the building has been constructed without any approved plan, it is appropriate to direct the 1st respondent, namely, Secretary, Housing and Urban Development Department, to dispose of the appeal itself within a period of 12 weeks from the date of receipt of a copy of this order. The stay petition filed by the petitioner before the said authority is allowed since, if any order is going to be passed by the 1st respondent in the stay petition, again, it will give rise to another round of litigation and to avoid that, the above direction has been given. Till the appeal is disposed of by the 1st respondent therein within the stipulated time and the order is served upon the writ petitioner, no coercive steps shall be taken. The writ petition is disposed of with the above direction. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nv



To

1. The Secretary to Government,
Housing and Urban Development
Department, Secretariat,
Fort St. George, Chennai - 600 009.

2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

3. The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

4. The Executive Engineer,
Greater Chennai Corporation,
Zone XI, Valasaravakkam,
Chennai - 600 087.

5. The Assistant Executive Engineer,
Unit 33, Zone XI,
Greater Chennai Corporation,
Valasaravakkam,
Chennai 600 087.

6. The Assistant Engineer,
Division 145, Zone XI,
Greater Chennai Corporation,
Valasaravakkam,
Chennai - 600087.

+1cc to Mr.V.P. Raju, Advocate, S.R.No.28960

W.P. Nos. 11716 & 12065 of 2021

PL(CO)
HS(29/07/2021)