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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.16810 OF 2021
AND
W.M.P.NO.17787 OF 2021

M.Charles

... Petitioner

Vs

1. The Secretary to the Government,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.
3. The Executive Engineer,
Zone-15, Greater Chennai Corporation,
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur,
Chennai-600 119.
4. The Assistant Executive Engineer,
Unit 45, Greater Chennai Corporation,
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur,
Chennai-600 119.

... Respondents

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance a Writ of Mandamus directing the 1st respondent to consider and pass suitable orders on the appeal dated 17.05.2021 submitted by the petitioner under Section 80A (3) of the Tamil Nadu Town and Country Planning Act and to forbear the respondents from taking any coercive action against



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the petitioner's premises located at Old No.134, New No.47, Venkateswara Nagar, E.B.Road, Perungudi, Chennai-600 096.

For Petitioner : Mr.G.Rajesh
For Respondents :
For R1 : Mr.P.Balathandayutham
Government Advocate
For R2 to R4 : Mr.K.Raja Shrinivas

O R D E R

(Order of the Court was made by T.V.THAMILSELVI, J.)

The matter has been heard through "Video Conference".

2.It is seen from the records that the petitioner is the absolute owner of the property situated at Old No.134, New No.47, Venkateswara Nagar, E.B.Road, Perungudi, Chennai-600 096, measuring an extent of 2812 Sq.ft purchased through sale deed dated 03.07.2006. Thereafter, the petitioner constructed building with shop. The Perungudi Village Panchayat got merged with Greater Chennai Corporation, from the year 2011 onwards. The building consists of ground and first floor, which was constructed in the year 2007. He also obtained patta No.5911 dated 12.10.2015, issued by the Tahsildar, Sholinganallur. He used the building in the ground floor for commercial purpose and 1st floor is used for residential purpose and paid the property tax regularly.

3. While that being so, the 3rd respondent issued notice on 16.02.2021 seeking a copy of the approved plan. Hence on 02.03.2021 he submitted revised plan for approval and regularization under Section 113C of Tamil Nadu Town & Country Planning Act and also submitted a detailed representation seeking the authorities not to take any coercive action till the approval of the regularization. But the lock and seal notice has been issued by the authorities stating that the building was unauthorised one. Thereafter, the petitioner filed W.P.No.6590 of 2021, calling for the records, dated 16.02.2021 and to quash the same. But the same was dismissed at the time of admission stage itself.

4.The learned counsel for the Petitioner submitted that the building was constructed prior to 1st July 2007, despite the pendency of the appeal before the 1st respondent, the authorities proposed to initiate coercive action.



5. Heard Mr.G.Rajesh, learned Counsel for the Petitioner and Mr.K.Raja Srinivas, learned counsel appearing for the respondents 2 to 4 and Mr.P.Balathandayutham, learned Government Advocate appearing for the 1st respondent.

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6. It is evident from the submission made by the learned Senior Counsel for the respondents 1 to 4 that the building is unauthorised one, as it was constructed without valid permission, for which, lock and seal notice was issued.

7. Taking into consideration, the fact that the appeal has been preferred by the petitioner before the 1st respondent, the 1st respondent is directed to dispose of the appeal within a period of six months from the date of receipt of a copy of this order. It is made clear that till the disposal of the appeal, there shall not be any coercive action with respect of the property situated at Old No.134, New No.47, Venkateswara Nagar, E.B.Road, Perungudi, Chennai-600 096.

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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,
Housing and Urban Development Department,
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Chennai-600 009.
2. The Commissioner,
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Rippon Building,
Chennai-600 003.
3. The Executive Engineer,
Zone-15, Greater Chennai Corporation,
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Sholinganallur,
Chennai-600 119.



4. The Assistant Executive Engineer,
Unit 45, Greater Chennai Corporation,
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur,
Chennai-600 119.

+1cc to Mr.G.Rajesh, Advocate, S.R.No.40474
+1cc to the Government Pleader, S.R.No.40380

W.P.No.16810 of 2021
and
W.M.P.No.17787 of 2021

KSM(CO)
CS/20/09/2021