



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2021

CORAM

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND

THE HONOURABLE MR. JUSTICE R. VIJAYAKUMAR

W.P.No.22172 of 2021

1.S.Raji

2.Manju

3.S.Prasanth

4.S.Prakash

...Petitioners

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003

2.The Executive Engineer,
Greater Chennai Corporation,
Zone - 6, Ayanavaram,
Chennai - 600 023.

3.S.Vasanthakumar

4.Satish

...Respondents

Prayer : Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 & 2 to pass final orders in the application dated 10.09.2020 submitted by R. Santhanam, the husband of the 1st petitioner and father of petitioners 2 to 4 in pursuant to the order passed by this Hon'ble Court dated 19.08.2020 passed in W.P. No. 7880/2020 to sanction the plan for the building constructed at Old No. 35, New No. 87, Samy Pathan Street, Ramalingapuram, Chennai - 600012.

For Petitioner :: Mr.S. Baskaran

For Respondents :: Mr.Raja Srinivas
for R1 & R2



O R D E R

(Order of the Court was made by S. VAIDYANATHAN, J.)

The writ petition has been filed for issue of a Writ of Mandamus directing respondents 1 & 2 to pass final orders in the application dated 10.09.2020 submitted by R. Santhanam, the husband of the 1st petitioner and father of petitioners 2 to 4 in pursuant to the order passed by this Hon'ble Court dated 19.08.2020 passed in W.P. No. 7880/2020 to sanction the plan for the building constructed at Old No. 35, New No. 87, Samy Pathan Street, Ramalingapuram, Chennai - 600 012.

2. The petitioners are in occupation of the building at Old No.35, New No.87, Samibathan Street, Ramalingapuram, Chennai -12, which was found to be belonging to a Trust, as tenants. Originally, according to the petitioners, the property was taken on lease by the grandmother of petitioners 2 to 4 from the mother of the 3rd respondent herein and she had constructed a thatched superstructure in the year 1970 and the family of the petitioners has been residing since then. Eviction proceedings were initiated by the 3rd respondent in the year 2004 and thereafter, there have been several litigations between the parties since then before the Civil Court as well as this Court. During the expansion of the Konnur High Road by the Government, the petitioners' house got totally damaged and petitioners' father had put up temporary construction with asbestos roof. On a complaint filed by the 4th respondent herein that the petitioners' father had put up unauthorised construction in the premises in question, de-occupation notice was issued by the Chennai Corporation and challenging the same, the husband of the 1st petitioner and father of petitioners 2 to 4, namely, Santhanam, had moved this Court by way of W.P. No. 7880 of 2020. This Court, while closing the writ petition, had made it very clear that the disputed questions of fact cannot be gone into and it is open to the petitioner therein to exhaust the alternative remedy before the State Government or to file an application before the Corporation seeking planning permission.

3. The above remark made by this Court is only an observation and not a direction. That apart, the communication sent by Santhanam, husband of the 1st petitioner and father of petitioners 2 to 4, after the order of the Court, dated 10.09.2020 is a representation and not an application under the Tamil Nadu Town and Country Planning Act, 1971. Whether a tenant would be entitled to make an application under the said Act seeking planning permission or not has to be decided only by the authority concerned and we do not want to delve into the same.



4. As the present relief sought by the petitioners cannot be granted being devoid of merits, the writ petition stands dismissed giving liberty to the petitioners to forward necessary application in terms of the provisions of law, which may be considered by the authority concerned within a period of 3 months from the date of receipt of a copy of this order. This Court makes it clear that in case of sanction of plan, the building shall be constructed only in accordance with plan without any violation. No water, sewerage and electricity connection shall be granted if there is violation. If allowed, the officers responsible will have to face departmental proceedings that shall be entered in their service records. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To

1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003

2.The Executive Engineer,
Greater Chennai Corporation,
Zone - 6, Ayanavaram,
Chennai - 600 023.

+1cc to Mr.Baskaran, Advocate, S.R.No.53864

+1cc to Mr.Rajashrinivas, Advocate, S.R.No.54219

W.P.No.22172 of 2021

MG (CO)
RVM(25/11/2021)