

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

THE HON'BLE MR. JUSTICE B. PUGALENDHI

WP No.19159 of 2020
and WMP.No.23735 of 2020

K. Srinivasan

...Petitioner

Vs.

1. Housing and Urban Development
Department,
Rep.by Principal Secretary to Government
Secretariat, Chennai - 9.
2. The Member Secretary,
Chennai Metropolitan Development Authority
Chennai - 600 008.
3. The Commissioner
Greater Chennai Corporation,
Chennai - 3
4. Assistant Executive Engineer,
Town Planning Section,
Greater Chennai Corporation,
No.4, 4th Cross Street, Lake View Road,
Chennai 600 034.

...Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the letter dated 14.09.2020 issued by the 4th respondent to quash the same and to direct the 3rd and 4th respondents to grant permission for demolition and construction as per the application dated 28.08.2020 submitted by the petitioner for his property situated at Old No.70C, New No.8, Alwarpet, 3rd street, Chennai 600 018 measuring to an extent of 516 Sq.ft.

For Petitioner : Mrs. Kanimozhi Mathi

For Respondents : Mr. D.Venkatesan for R1

Mrs.Veena Suresh

Standing Counsel for R2

Mrs.P.T.Ramadevi

Standing Counsel for R3 & R4

ORDER

This writ petition is filed as against the communication of the respondent Corporation to the petitioner's letter dated 14.09.2020, in and by which the Assistant Executive Engineer has sought for certain particulars for consideration of the petitioner's application for demolition and construction at Old No.70C, New No.8, R.S.No.3760/113, Alwarpet, 3rd street, Chennai 600 018.

2. Mrs. Ramadevi, learned counsel for the Corporation submitted that certain particulars have been sought for from the petitioner and he has not furnished the details as called for by the respondent Corporation.

3. Mrs.Kanimozhi, learned counsel for the petitioner by referring to the remarks in the impugned letter dated 14.09.2020 contended that vide this communication the respondent Corporation has indirectly rejected the request made by the petitioner for demolition and reconstruction that the application must be submitted only after the disposal of the case in O.S.No.786 of 2016.

4. The case of the petitioner is that the suit in O.S.No.786 of 2016 is nothing to do with the issue of building plan approval for the Old No.70C, New No.8, Alwarpet, 3rd street, R.S.No.3760/113, Chennai 600 018. The issue with regard to the ownership of the property has already been settled in a partition suit among the brothers in O.S.No.11439 of 2010 and a final decree has been passed as early as on 03.09.2014 and the parties to this decree have not challenged the same and it became final. The present suit referred by the respondent Corporation in O.S.No.786 of 2016 was filed by the petitioner as against his brothers and it is nothing to do with the final decree and it also based on the final decree passed in O.S.No.11439 of 2010. When the ownership of this petitioner over the house in Old No.70C, New No.8, Alwarpet, 3rd street, Chennai 600 018 has already been decided by the Competent Civil Court in the partition suit, the reference made by the Corporation by referring to the suit in O.S.No.786 of 2016 is unwarranted and uncalled for. She has also pointed out the further direction issued by the appellate authority in letter No.21481/UD-VI (1)/2019-5 dated 09.10.2019, wherein the Principal Secretary to the Government, Housing and Urban Development Department has discussed the issue in detail and also accepted the recommendation of the Appellate Committee and also directed the petitioner to submit the application to the respondent Corporation as per Tamil Nadu Combined Development & Building Rules 2019. Based on this recommendation only, this petitioner

has submitted his application on 28.08.2020 and this petition has also been returned in such a way as it can be made only after the disposal of the civil suit in O.S.No.786 of 2016.

5. Mrs.Ramadevi, learned counsel for the Corporation submitted that vide this communication the Corporation has sought only for details and the petitioner can very well furnish the details pertaining to O.S.No.786 of 2016 and the decree passed in O.S.No.11439 of 2010, so that they can take a decision whether the petitioner is the owner of the property in Old No.70C, Alwarpet 3rd street, Teynampet, Chennai - 18.

6. In view of the submission made by the learned Standing Counsel appearing for the Corporation and the impugned communication has only sought for details, this Court directs the petitioner to furnish the details along with the other documents to prove his ownership to the property to the respondent Corporation within a period of one week from the date of receipt of a copy of this order and the respondent Corporation shall take a decision on the representation within a period of three weeks thereafter by considering all the documents placed before them and to take a decision on the approval of the building plan application.

6. With the above observation the writ petition is allowed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

dpq

To

1. Housing and Urban Development
Department,
Rep.by Principal Secretary to Government
Secretariat, Chennai - 9.
2. The Member Secretary,
Chennai Metropolitan Development Authority
Chennai - 600 008.

3. The Commissioner
Greater Chennai Corporation,
Chennai - 3

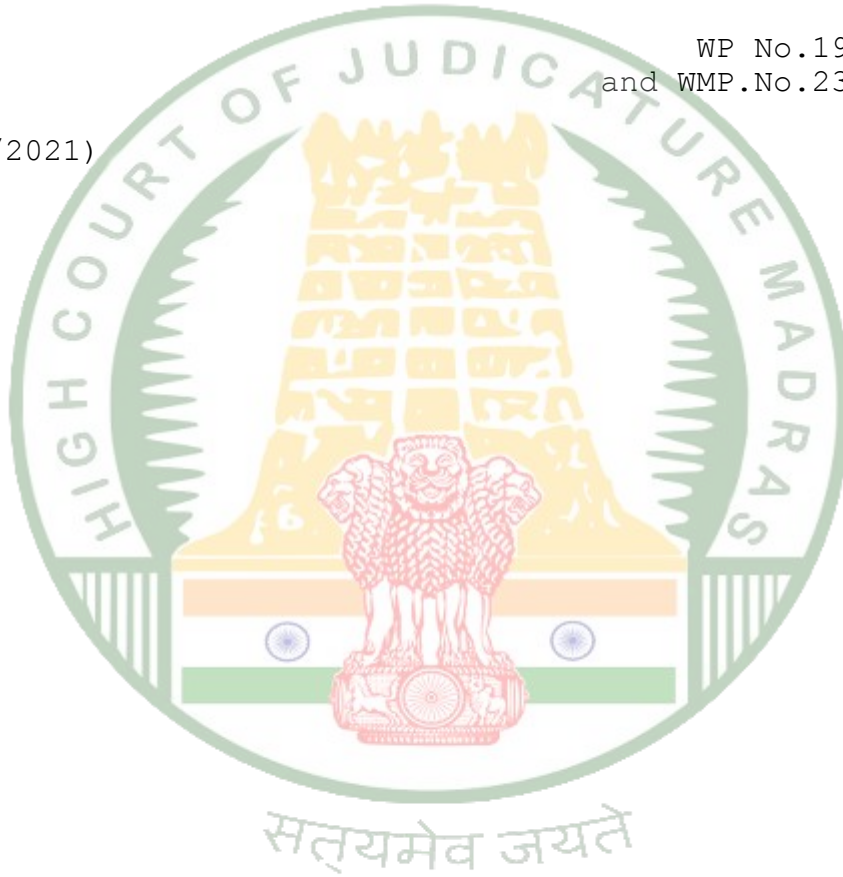
4. Assistant Executive Engineer,
Town Planning Section,
Greater Chennai Corporation,
No.4, 4th Cross Street, Lake View Road,
Chennai 600 034.

+1 cc to M/s.P.Veena Suresh, Advocate Sr.No. 5632

+1 cc to The Government Pleader Sr.No. 6084

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VSNII (CO)
RMP (01/03/2021)



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