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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.11.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.23921 OF 2021
AND
W.M.P.NO.25252 OF 2021

Sir Zalawad Jain Welfare Trust,
Rep. By its Secretary
Mr.Bakulesh R Shah

... Petitioner

.Vs.

1. The Principal Secretary,
Housing and Urban Development,
St. George Fort,
Chennai - 600 001.
2. The Member Secretary,
Chennai Metropolitan Development
Authority (CMDA),
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings,
Chennai - 600 003.
4. M.Lalith Kumaar

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in connection to impugned order vide G.O.(3D).No.70, dated 29.09.2021 passed by the 1st respondent and quash the same.

For petitioner : Mr.P.Subba Reddy



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For respondents : Mr.L.S.M.Hasan Fizal
Government Counsel
For R1

Mrs.Sumathy Sreekanth
Standing Counsel
For R2

Mr.K.Raja Srinivas
Sr.Standing Counsel
For R3

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. Mr.L.S.M.Hasan Fizal, learned Government Counsel takes notice for R1; Mrs.Sumathy Sreekanth, learned Standing Counsel takes notice for R2 and Mr.K.Raja Srinivas, learned Sr.Standing Counsel takes notice for R3.

3. Mr.P.Subba Reddy, learned counsel appearing for the petitioner would urge that the petitioner is the Trust and the subject property was purchased by the petitioner in the year 1994. After obtaining approval in the year 1994 and 1996, the subject property was jointly developed by the co-owners as a residential complex and also the construction was completed in the year 1996 itself. While being so, the 2nd and 3rd respondent initiated proceedings and issued lock and seal notice dated 19.11.2014. Challenging the lock and seal notice, the petitioner - Trust preferred an appeal under Section 80 (A) of the Town and Country Planning Act, before the 1st respondent, however, the same was dismissed on 31.08.2015.

4. It appears that the petitioner approached the CMDA seeking for regularizations, but, it was rejected. Subsequently, an appeal was filed to the 1st respondent and in W.P.No.33420 of 2016, a direction was issued. The 4th respondent also filed a writ petition in W.P.No.16775 of 2021 raising objections to the regularizations. Eventually, the appeal was dismissed.



5. It is the submission of the learned counsel for the petitioner that though an opportunity was given to the petitioner, all the required documents could not be produced. He further added that the petitioner is having ample evidence to show that the building in dispute was constructed before 1999, however, before they could be collected and produced before the 1st respondent, the appeal came to be rejected.

6. We have heard the learned counsels appearing for the parties and also perused the materials available on record.

7. Considering the grievance expressed by the petitioner that he is having relevant documents to show that the building in dispute was constructed before the cut off date, ie., 28.02.1999, we thought it appropriate to set aside the order dated 29.09.2021 passed vide G.O.(3D).No.70 and remit the matter back to the 1st respondent for fresh consideration. The 1st respondent shall afford ample opportunity to the petitioner as well as the 4th respondent and pass orders afresh, in accordance with law. Till then, the respondents are directed to maintain status-quo as on date.

8. With the above direction, this writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
Housing and Urban Development,
St. George Fort,
Chennai - 600 001.
2. The Member Secretary,
Chennai Metropolitan Development
Authority (CMDA),
No.1, Gandhi Irwin Road
Egmore, Chennai - 600 008.



3. The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings,
Chennai - 600 003.

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+1cc to Mr.P.Subba Reddy, Advocate, S.R.No.57473

W.P.NO.23921 OF 2021

RGN(CO)
PBS/06/12/2021