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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.1451 of 2022

M/s.Gokulam Industries
rep. by its Partner R.Hariharan,
No.41, Thiruppur Kumaran Main Road,
Puzhal, Chennai-600 066.

... Petitioner

-vs-

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

2. The Executive Engineer, Zone III,
Greater Chennai Corporation,
No.1, Thattamkulam Salai,
Madhavaram, Chennai-600 060.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents to forthwith remove the lock and seal affixed on 28.07.2020 in the petitioner's property situated at S.No.701/2 and 701/13 at Madhavaram Village, comprised in No.41, Thiruppur Kumaran Main Street, Puzhal, Chennai-600 066 so as to enable the petitioner to apply for regularization of the building and getting approval from the respondents in consonance with the present Tamil Nadu Combined Development and Building Rules, 2019, on the basis of the petitioner's representation dated 10.01.2022.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.K.Raja Shrinivas
1 and 2 Sr.Standing Counsel

ORDER

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



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This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents to forthwith remove the lock and seal affixed on 28.07.2020 in the petitioner's property situated at S.No.701/2 and 701/13 at Madhavaram Village, comprised in No.41, Thiruppur Kumaran Main Street, Puzhal, Chennai-600 066 so as to enable the petitioner to apply for regularization of the building and getting approval from the respondents in consonance with the present Tamil Nadu Combined Development and Building Rules, 2019, on the basis of the petitioner's representation dated 10.01.2022.

2. Learned Counsel appearing for the petitioner would submit that the petitioner being the owner of the property/premises bearing No.41, Thiruppur Kumaran Main Street, Puzhal, Chennai-600 066 commenced and also completed the building-in-question in the year 2014 itself. Thereafter, the petitioner Industry was given Electricity and Water connections and patta has also been issued in the name of the petitioner and they are also carrying on the business in the name and style of 'M/s.Gokulam Industries', manufacturing Dhall Cleaning and other processing works in the said premises for which they have also obtained licence from the Revenue Department, Fire Licence from the Fire Service Department and Food Safety and Drug Administration Department. They have also paid all taxes to the respective authorities and there is no any due in respect of the tax payable to the competent authorities. While so, when they have applied under the regularization scheme of lay out, the same is still pending with the CMDA and no order has been passed as on date.

3. Learned Counsel for the petitioner would further submit that since there are certain violations/deviations in the building, the 2nd respondent inspected the petitioner's premises on 11.10.2017 and also issued a notice to produce necessary plan for the aforesaid property on 12.10.2017. On receipt of the same, a detailed reply has been given by the petitioner. In spite of submitting a reply to the 2nd respondent, the 2nd respondent issued a lock and seal notice on 22.01.2018 calling upon the petitioner to restore the land to its original condition that existed before the construction took place within 30 days from the date of receipt of that notice, failing which they informed that further action would be taken under the provisions of Section 57(4) of the Tamil Nadu Town and Country Planning Act to seal the building-in-question. Thereafter, when the petitioner has applied for regularization of the land on 25.07.2017 situated at S.No.701/2 and 701/13, Madhavaram Village, comprised in No.41, Thiruppur Kumaran Main Street, Puzhal, Chennai-66, the same was also approved by the Greater Chennai Corporation on 19.02.2019. Though, now the petitioner has to rectify the defects, the building has been sealed. Therefore, the petitioner has given a



representation dated 10.01.2022 to the respondents making it clear that the building belonging to the petitioner is fit for regularization by way of filing necessary application under Section 49 of the Tamil Nadu Town and Country Planning Act. Hence, if a direction is given to the 2nd respondent to consider the representation of the petitioner dated 10.01.2022 for desealing the petitioner's premises, they would be able to rectify the defects and apply for necessary planning permission under Section 49 of the Act, he pleaded.

4. Mr.K.Raja Shrinivas, learned Standing Counsel for the respondents 1 and 2 also submitted that the steps for lock and seal have been taken, only when the respondents have, on inspection, found that the building-in-question has been put up without getting any planning permission.

5. Considering the facts and circumstances of the matter and also considering the fact that the petitioner has also moved an application/representation on 10.01.2022 requesting the 2nd respondent to desal the building-in-question to bring the same within the regular parameters as per the rules, we are of the view that keeping the building under lock and seal would not benefit either of the parties. Therefore, we hereby direct the 2nd respondent herein, namely, The Executive Engineer, Zone III, Greater Chennai Corporation, No.1, Thattamkulam Salai, Madhavaram, Chennai-600 060 to consider the application/representation of the petitioner dated 10.01.2022 and desal the property thereby permitting the petitioner to rectify the deviations enabling them to apply for the planning permission. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this Order.

6. With the above observation and direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To

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



2. The Executive Engineer, Zone III,
Greater Chennai Corporation,
No.1, Thattamkulam Salai,
Madhavaram, Chennai-600 060.

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+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.21289

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.5421 [28/04/2022]

W.P.No.1451 of 2022

PA(CO)
CB(06/04/2022)