



WEB COPY



W.P.No.5124 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.5124 of 2021 and W.M.P. No.5706 of 2021

B.Dillibabu

.. Petitioner

-VS-

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Salai, Egmore,
Chennai – 600 008.

2.The Executive Engineer,
Zone-VII, Ambattur,
Greater Corporation of Chennai,
Chennai-600 053.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the second respondent to consider the petitioner's representation dated 10.02.2021 and thereby to issue building planning permission and approval vide application number OBPA/01/05243/2020 dated 18.12.2020 for his property situated at Korratur Village, comprised in Survey No.699/3, Block No.17, Division



W.P.No.5124 of 2021

No.82, Zone VII, Greater Corporation of Chennai limit to an extent of 559 sq.ft. Chennai District within the stipulated period of time fixed by this Court.

For Petitioner :: Mr.A.Vijayakannan

For Respondents :: Mrs.P.Veena Suresh,
CMDA for R1

Mr.K.Raja Shrinivas,
Standing Counsel for Corporation for R2

ORDER

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

This writ petition has been filed by the petitioner seeking a direction to the second respondent to consider his representation dated 10.02.2021 and issue building planning permission and approval vide application number OBPA/01/05243/2020 dated 18.12.2020 for his property, situated at Korratur Village, comprised in Survey No.699/3, Block No.17, Division No.82, Zone VII, Greater Corporation of Chennai limit to an extent of 559 sq.ft. Chennai District within the stipulated period of time, fixed by this Court.



W.P.No.5124 of 2021

2.Learned counsel appearing for the petitioner submitted that the petitioner, after obtaining the land to an extent of 559 sq.ft., situated at Korattur Village, comprised in Survey No.699/3 by way of Settlement Deed in Document No.4347 of 2020 dated 27.10.2020, registered at SRO., Villivakkam from his father N.Babu, became the absolute owner of the said property. Learned counsel for the petitioner further submitted that based on a false complaint lodged by one Rajesh Kumar through online, the second respondent authority had issued a stop work notice on 07.10.2020 and therefore, the petitioner stopped the work in his property. Since the petitioner is having only a small extent of 559 sq.ft. of the property, he was under the bonafide impression that no planning permission is required for the property less than 700 sq.ft. Learned counsel for the petitioner further submitted that since the application dated 18.12.2020 filed by the petitioner seeking planning permission is pending before the competent authority and he is prepared to comply with the conditions and pay necessary charges to be imposed against him and he is eking out his livelihood only from the property, a direction may be issued to the second respondent to dispose of



W.P.No.5124 of 2021

his application expeditiously, otherwise, he will be put to face grave hardships and will become houseless, if his building is demolished.

3.Learned Standing Counsel appearing for the second respondent, drawing our notice to Rule 7(2) of the Tamil Nadu Combined Development and Building Rules 2019, submitted that for the purpose of obtaining planning or building permission, the applicant being the owner of the land or the power of attorney holder shall submit an application through online in the prescribed format to the competent authority. Therefore, the submissions made by the learned counsel for the petitioner that since the petitioner is having only 559 sq.ft. of land, he is not required to get planning permission is a concocted story in view of the above Rule.

4.Heard both sides.

5.In this regard, it is useful to refer Rule 7(2) of the Tamil Nadu Combined Development and Building Rules 2019 as under:



WEB COPY



W.P.No.5124 of 2021

'7(2)Every application for planning permission shall be accompanied by a scrutiny fee as calculated in the following manner:

.....

.....'

6.A perusal of the above Rule 7(2) shows that the owner of the land/ applicant should get necessary planning or building permission from the competent authority, before constructing any building, by paying necessary scrutiny fee as calculated therein.

7.In the present case, as the petitioner has mentioned in the affidavit that before putting up construction in a small extent of his land, he was not aware that he should obtain planning permission even for the small extent of land, the petitioner is now permitted to file an application in the light of the above Rule. If any such application is filed by him, the same shall be considered by the second respondent, on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. In the meanwhile, both the parties are directed to maintain status quo as on today.



WEB COPY



W.P.No.5124 of 2021

T.RAJA, J.
and
K.KUMARESH BABU,J.

vga

8.With the above direction and observation, this writ petition stands disposed of. Consequently, W.M.P. No.5706 of 2021 is closed. However, there is no order as to costs.

(T.R.,J.) (K.B.,J.)
30.06.2022

vga

To

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Salai, Egmore,
Chennai – 600 008.

2.The Executive Engineer,
Zone-VII, Ambattur,
Greater Corporation of Chennai,
Chennai-600 053.

W.P.No.5124 of 2021 and W.M.P. No.5706 of 2021