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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

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

W.P.No.7054 of 2022

M.Dinesh Kumar Jain

...Petitioner

-vs-

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Housing & Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 2nd respondent to forthwith remove the lock and seal affixed on 30.06.2021 in the petitioner property at Old No.50/1A, New No.109, Maddex Street/Road, Vepery, Chennai-600 007 comprised in S.No.815 for a period of about six months to enable petitioner to rectify and restore the said premises in conformity with the sanctioned plan and the present Tamil Nadu Combined Development Rules, 2019 on the basis of the petitioner's representation dated 07.03.2022 addressed to the 2nd respondent.

For Petitioner : Mr.L.Chandrakumar

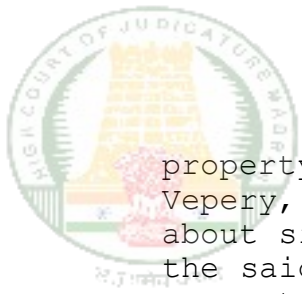
For 1st Respondent : Mr.K.V.Sajeev Kumar,
Spl.G.P.

For 2nd respondent : Mrs.C.Sumathi,
Standing Counsel

ORDER

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

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the 2nd respondent to forthwith remove the lock and seal affixed on 30.06.2021 in the petitioner



property at Old No.50/1A, New No.109, Maddex Street/Road, Vepery, Chennai-600 007 comprised in S.No.815 for a period of about six months enabling the petitioner to rectify and restore the said premises in conformity with the sanctioned plan and the present Tamil Nadu Combined Development Rules, 2019 on the basis of the petitioner's representation dated 07.03.2022 addressed to the 2nd respondent.

2.Learned Counsel appearing for the petitioner would submit that the petitioner was issued with a Lock and Seal Notice dated 05.08.2019. Aggrieved thereby, he has filed W.P.No.8703/2020 for issuance of a Writ of Mandamus, directing the 2nd respondent therein CMDA to remove the lock and seal of the building-in-question enabling the petitioner to carry out the rectifications, so far as the deviations in the constructions were indicated therein. This Court, accepting the case of the petitioner that he wanted time to carry out the rectification of the deviation, by an order dated 01.07.2020 granted time up to 31.08.2020 with a specific direction that till then, no coercive action shall be taken by the respondents against the petitioner. Thereafter, although the petitioner was taking earnest efforts to rectify the defects, due to the intervening covid-19 pandemic situation, the petitioner was unable to find out the masons and other labourers to carry out the rectification of the defects in the building-in-question. Therefore, when due to the covid-19 pandemic situation followed by the lock down announced by both the State and Central Governments, the time granted by this Court by an order dated 01.07.2020 could not be utilised.

3.Learned Counsel for the petitioner would further submit that in a similar circumstance, when W.P.No.3703/2022 (Dinesh Kumar and another vs. The Secretary, Housing and Urban Development Department, 5th Floor, CMDA Tower-1, Gandhi Irwin Road, Egmore, Chennai-600 008 and 5 others) was filed seeking time to rectify the defects, this Court by an order dated 24.02.2022 specifically mentioning that due to the intervening covid-19 pandemic situation followed by the lock down announced by both the State and Central Governments, the petitioners therein were unable to carry out any rectification work in the building, granted six months time. Therefore, in the present case also, if a similar and reasonable time is given, the petitioner herein having put up slit + 4 floors, would be able to rectify the entire defects as per the planning permission.

4.Mr.K.V.Sajeevkumar, learned Special Government Pleader takes notice for 1st respondent and Mrs.C.Sumathi, learned Standing Counsel takes notice for 2nd respondent.

5.Learned Special Government Pleader appearing for the 1st respondent opposing the above prayer pleaded that when this



Court on the very same reason on 01.07.2020 granted time till 31.08.2020 to the petitioner herein, had he faced the genuine hardships of not able to mobilise the labourers to carry out the rectification, he could have immediately approached this Court which has not been done so by the petitioner. After remaining idle for quite a long time, he has now come to this Court with this writ petition.

6. At this stage, learned Counsel for the petitioner would submit that the petitioner has to carry out the major rectification works. Therefore, reasonable time may be given.

***7. In view of the above, we direct the respondents to de-seal the building in question so as to enable the petitioner to carry out the rectification work. Accordingly, we grant three months time to carry out the entire rectification works. Needless to mention that if the petitioner fails to comply with the same within the said period, it is open to the respondents to take appropriate action as per law.**

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

Sd/-

Assistant Registrar(CS-VIII)

Dated:19.04.2022

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***corrected para 7 as per order of
this Court dated 04.04.2022
and made in WP.7054/2022**

-s/d-

Assistant Registrar(CSVIII)

Dated:19.04.2022

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Housing & Urban
Development Department,
Fort St. George,
Chennai-600 009.

to be substituted the order
already despatched on **01.04.2022**



2. The Member Secretary,
Chennai Metropolitan
Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

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+1cc to M/s.L.Chandrakumar, Advocate, S.R.No.***22915**

W.P.No.7054 of 2022

BP (CO)
RGA (01/04/2022)
A.SK (21/04/2022)