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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM

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

W.P.No.9052 of 2022

K.Kumar

... Petitioner

vs

1.The Commissioner,
The Greater Chennai Corporation,
Ripon Building,
Chennai - 600 001.

2.The Executive Engineer,
Zone-4,
The Greater Chennai Corporation,
Ripon Building,
Chennai - 600 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to forthwith remove the lock and seal in the petitioner's property situated at Old No.11 and Old No.12, New No.03 Ajees Nagar, Ennore High Road, Tondiarpet, Chennai - 600 081, so as to enable the petitioner to carry out the rectification 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 02.04.2022.

For Petitioner :Mr.L.Chandrakumar

For Respondents :Mr.K.Raja Shrinivas,
Standing Counsel for Corporation



ORDER

[Order of this Court was delivered by T.RAJA, J.]

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Mr.K.Kumar, the petitioner herein has come to this Court with this petition for issuance of a writ of Mandamus under Article 226 of the Constitution of India seeking a direction to the respondents to forthwith remove the lock and seal in his property, situated at Old No.11 and Old No.12, New No.03 Ajees Nagar, Ennore High Road, Tondiarpet, Chennai - 600 081, so as to enable him to carry out the rectification of the building and get approval from the respondents in consonance with the present Tamil Nadu Combined Development and Building Rules 2019, on the basis of his representation dated 02.04.2022.

2.Learned counsel appearing for the petitioner submitted that the petitioner has become the owner of the subject property, which is 37 years old superstructure, situated at Old No.11 and 12, New No.03, Ajees Nagar, Ennore High Road, Tondiarpet, Chennai-600 081, having purchased the same from his vendors vide registered Sale Deed Nos.367/2011, 1816/2012 and 3321/2011 dated 02.02.2011, 23.05.2012 and 21.09.2011 respectively. From the date of purchase, the petitioner has been in peaceful possession and enjoyment of the same with electricity and water connection and all infrastructure facilities. Since the old building was in a dilapidated condition, the petitioner had put up ground plus two floors building for their clinic purposes. However, the petitioner has also taken steps to apply under the regularisation scheme, since the old superstructure was in a dilapidated condition and was removed subsequently. While so, the second respondent issued a lock and seal and demolition notice dated 26.07.2021 alleging un-authorized construction, calling upon the petitioner to produce necessary plan for the aforesaid property, for which, he had given a detailed reply, narrating the material facts. In spite of the reply, the second respondent issued the locking and sealing notice calling upon the petitioner to restore the land to its condition before the construction took place, within 30 days from the date of receipt of the above notice, failing which, further action will be taken under the provisions of Section 57(4) of the Tamil Nadu Town and Country Planning Act to seal the building. Learned counsel for the petitioner further submitted that the petitioner, before putting up ground + 2 floors building, should have obtained planning permission, which has not been done. Therefore, on receipt of the impugned lock and seal notice, he has been advised to come to this Court to



5. Again on 10.01.2022, the Hon'ble Apex Court in Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020, taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, has given the following directions:

'I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022.'

6. As we are bound by the above orders passed by the Hon'ble Apex Court, condoning the delay occurred during the Covid-19 pandemic period, bearing in mind that the delay occurred in the present case is during the said pandemic time, this Court, accepting the request made by the petitioner, is inclined to grant three months' time to rectify the defects in the ground + 2 floors building. Accordingly, the second respondent is hereby permitted to de-seal the property within a period of one week from the date of receipt of a copy of this order. Thereafter, the petitioner is granted three months' time to carry out the rectification. With the above observation, this writ petition stands disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



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The Greater Chennai Corporation,
Ripon Building,
Chennai - 600 001.

2.The Executive Engineer,
Zone-4,
The Greater Chennai Corporation,
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+1cc to Mr.K.Rajasrinivas, Advocate Sr.25273
+2cc to Mr.L.Chandrakumar, Advocate Sr.25149

W.P.No.9052 of 2022

spd[col]
srg 27/04/2022