



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.9060 of 2022

Hiralal

...Petitioner

vs

1.The Secretary to the Government,
Housing and Urban Development Department,
Fort St. George,
Chennai-9.

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

3.The Executive Engineer,
Zone-XIII, Adayar,
The Greater Chennai Corporation,
Chennai - 600 020.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to restrain from lock and sealing of the subject premises situated at Plot No.93, Door No.10, Lakshmipuram, 4th Street, Thiruvanmiyur, Chennai-40 pursuant to the locking and sealing and demolition notice vide Notice No.Div181/007/2019 dated 30.10.2019 issued by the third respondent and the consequential de occupation notice dated 24.03.2022, so as to enable the petitioner to carry out 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 04.04.2022.



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For Petitioner :Mr.L.Chandrakumar

For Respondents :Mr.K.V.Sajeev Kumar,
Special Government Pleader
for R1

Mr.K.Raja Shrinivas,
Standing Counsel for Corporation
for R2 and R3

ORDER

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

Mr.Hiralal, 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 restrain from locking and sealing of the subject premises, situated at Plot No.93, Door No.10, Lakshmipuram, 4th Street, Thiruvannamiyur, Chennai-40, pursuant to the locking and sealing and demolition notice vide Notice No.Div181/007/2019 dated 30.10.2019 issued by the third respondent and the consequential de-occupation notice dated 24.03.2022, so as to enable him to carry out 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 his representation dated 04.04.2022.

2.Learned counsel appearing for the petitioner submitted that the petitioner, who is a senior citizen, aged about 70 years, has become the owner of the subject property, having purchased the same from his vendor vide registered Sale Deed No.7507/2004 dated 17.11.2004 and there was an existing old building at the time of purchase, which was put to residential use by the petitioner's family. 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 and the rain water started entering into the petitioner's residential premises, he had put up ground plus two floors building for their residential purposes. While so, the petitioner came to understand that the plot number and the boundaries were wrongly typed in the sale deed and he was advised by the respondents to rectify the defects in the sale deed and to proceed with the sanction and approval from the



competent authority. In this regard, an Original Suit in O.S. No.4848 of 2020 has been filed for a direction to the petitioner's vendor to execute necessary rectification deed by rectifying the defects in the said sale deed and the same is pending before the learned II Assistant Judge, City Civil Court, Chennai. In the meantime, the builder had proceeded with the construction work, as the building materials were already procured and labourers were also allotted work on contract basis by making advance payments. While so, the second respondent issued a lock and seal and demolition notice dated 30.10.2019 alleging un-authorized construction, 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, realising the mistake committed by him, has come forward to rectify the defects pointed out by the respondents. Therefore, if the petitioner is given three months' time to rectify the defects, no prejudice would be caused to anyone.

3.Learned Special Government Pleader appearing for the first respondent submitted that when the petitioner filed his Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act before the first respondent challenging the lock and seal notice, he was granted three months' time to rectify the defects pointed out by the competent authority and after expiry of the time limit, the petitioner has come to this Court.

4.We also find that the competent authority has granted three months' time to the petitioner for rectifying the defects and the petitioner has applied for revised plan, which was rejected by the respondents. As the said period falls during the Covid-19 pandemic situation, now the petitioner is entitled to the exclusion of Covid-19 pandemic period, in view of the order passed by the Hon'ble Apex Court, taking suo motu cognizance of the situation arising out of COVID-19 pandemic and in exercise of powers conferred under Article 142 read with Article 141 of the Constitution of India, in a Suo Motu Writ Petition (Civil) No.3 of 2020 dated 23.03.2020, ordered that a period of limitation in all such proceedings irrespective of the limitation prescribed under the General Law or Special Laws whether condonable or not shall stand extended with effect from 15.03.2020 till further orders to be passed by the Hon'ble Apex Court. The relevant portion of the said order passed by the Hon'ble Apex Court is extracted below:-



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'1.This Court has taken suo motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under special laws (both Central and/or State).

2.To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.'

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 third 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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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+1 CC to Mr.L.Chandrakumar, Advocate sr 25276
+1 CC to Mr.K.Raja Srinivas, Advocate sr 25271.

W.P.No.9060 of 2022

SKM(CO)
SP(29/04/2022)