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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

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

W.P.No.9660 of 2022

C.Prabhu

... Petitioner

vs

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

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

3.The Executive Engineer,
Zone-14, Ward No.188,
Greater Chennai Corporation,
No.6/64, Puzhuthivakkam Main Road,
Chennai - 600 091.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the second respondent to remove the lock and seal made in respect of property bearing Plot No.7B, comprised in Survey No.668/7 bearing Patta No.6710 as per Patta the Survey number being 668/7B and New Patta bearing No.11280, as per the said Patta New Survey Number being 668/7A and 668/7B of an extent of 2180 sq.ft. in Pallikaranai Village, New Balaji Nagar, Pallikaranai, Chennai-600 100 and thereon permit the petitioner to carry out the alterations works so as to bring the property as per the sanction plan within a time frame.



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For Petitioner :Mr.V.Lokesh Kumar

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

Mr.K.Raja Shrinivas,
Standing Counsel for Corporation
for R2 and 3

ORDER

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

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 second respondent to remove the lock and seal made in respect of the property, situated at Plot No.7B, Pallikaranai Village, New Balaji Nagar, Pallikaranai, Chennai-600 100 and to carry out the alteration work so as to bring the property as per the sanctioned plan, within a time frame.

2.Learned counsel appearing for the petitioner submitted that the petitioner had purchased a vacant house site to an extent of 2180 sq.ft., situated at Pallikaranai Village, New Balaji Nagar, by virtue of a Sale Deed dated 24.01.2013, registered as Document No.657/2013 on the file of the Office of the District Registrar, South Chennai. Learned counsel for the petitioner further submitted that to develop the said vacant land by way of putting construction, the petitioner had approached the second respondent for a sanctioned plan and the second respondent has accorded Building Approval Plan vide sanction No.6693/2013 dated 08.10.2013 and as per the said approved plan, the ground, 1st and 2nd floors are meant for car parking, commercial and residential purpose respectively. After putting up construction as per the said approved plan, the property was assessed to tax and the petitioner had been remitting the property tax to the respondents, without any default. While so, the third respondent issued a Notice dated 02.04.2019 under Sections 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act 1971 calling for the approved plan issued under Sections 56 and 57 of the above Act. Though the petitioner had produced the approved plan to the third respondent, the third respondent had issued a Notice dated 24.05.2019 under the caption lock and seal and demolition



notice, since the construction carried out by the petitioner in the said property is in deviation to the approved plan. Therefore, the petitioner preferred an Appeal as against the said order to the Secretary to Government Housing and Urban Development Department on 06.06.2019 and when the same is pending, the second respondent had issued a De-occupation notice under Section 56 sub section 2(A) and 57 read with Section 85 of the Act calling upon the petitioner to de-occupy the said premises within 15 days from the date of receipt of the said notice. Therefore, the petitioner had approached this Court by filing a writ petition in W.P. No.18727 of 2019 forbearing the respondents therein from acting or demolishing or locking and sealing the premises of the petitioner. This Court, without expressing an opinion on the merits of the case, directed the first respondent Secretary to Government to dispose of the stay application within 10 days from the date of receipt of a copy of the order. However, the first respondent rejected the Appeal filed by the petitioner on 27.05.2020. Aggrieved by the same, the petitioner has again come to this Court by filing Writ Petition in W.P. No.18221 of 2021 and this Court by order dated 14.09.2021, disposed of the writ petition with a direction to the petitioner to rectify the violations within 4 months. Pursuant to the same, when the petitioner engaged a contractor to rectify the violations and started the work, due to the increase of Covid cases between December 2021 and January 2022 and the lock down extended till the first week of February 2022 with certain restrictions by the State and Central Government, the work was halted during the said period. Therefore, the petitioner filed an application seeking extension of time to comply with the order dated 14.09.2021 passed by this Court in W.P. No.18221 of 2021. While so, the second respondent without considering the same, had locked and sealed the entire premises on 07.03.2022. As the third respondent is now taking steps to demolish the entire building put up by the petitioner, he is before this Court with the above prayer. Learned counsel for the petitioner further submitted that if the petitioner is given three months' time to carry out rectification of the defects pointed out by the respondents, no prejudice would be caused to anyone and a direction may be given to de-seal the property.

3.Heard the parties.

4.In this regard, 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:-

'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 and this Court has also granted four months time to the petitioner, while disposing of the W.P. No.18221 of 2021, accepting the request made by the petitioner, we are inclined to grant three months' time to the petitioner to rectify the defects pointed out by the respondents. 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 from the date of de-sealing the property, to carry out the rectification. The respondents are at liberty to take action against the petitioner, in accordance with law. With the above observation, this writ petition stands disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

vga

To

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

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



3.The Executive Engineer,
Zone-14, Ward No.188,
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No.6/64, Puzhuthivakkam Main Road,
Chennai - 600 091.

+lcc to Mr.V.Lokesh Kumar, Advocate Sr.27013
+lcc to the Government Pleader 27169

W.P.No.9660 of 2022

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srg 12/05/2022