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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM

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

W.P.No.10385 of 2022 and WMP.No.10104 of 2022

C.Srinivasan

...Petitioner

-vs-

1. The Secretary to Government,
Housing and Urban Development Department,
St. George Fort, Secretariat,
Chennai-600 009.
2. The Additional Secretary to Government (Technical),
Housing and Urban Development Department,
St. George Fort, Secretariat,
Chennai-600 009.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai-600 008.
4. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.
5. The Executive Engineer,
Zone-VII, Greater Corporation of Chennai,
No.5, Anderson Road, Ayanavaram,
Chennai-600 023.
6. The Assistant Executive Engineer,
Unit-16, Zone-VII,
Greater Corporation of Chennai,
No.5, Anderson Road, Ayanavaram,
Chennai-600 023.
7. The Assistant Engineer,
Greater Corporation of Chennai,
Division-68, Unit-16, Zone-VII,
No.5, Anderson Road, Ayanavaram,
Chennai-600 023.



8. S.Sundaramoorthy Jayaseelan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 1st respondent to dispose of the Review Petition dated 15.03.2021 pending on the file of the 1st respondent.

For Petitioner : Mr.S.Santhan

For Respondents : Mr.K.V.Sajeev Kumar,
Spl.Govt.Pleader for R1 and R2

Mrs.C.Sumathi for R3

Mr.K.Raja Shrinivas for R4 to 7
Standing Counsel

ORDER

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

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to dispose of the Review Petition filed by the petitioner dated 15.03.2021 pending on the file of the 1st respondent.

2. Learned Counsel appearing for the petitioner submitted that the petitioner is the absolute owner of the property bearing Door No.309, Thiru.Vi.Ka.Nagar, 18th Street, Sembium (Peravallur), Chennai-11 having acquired the same by way of Partition Deed dated 04.12.2022 vide Doc.No.8628/2022 on the file of SRO, Sembium. Since the petitioner has decided to demolish the existing old building and construct a new Building consisting of ground floor and first floor, he approached the 4th respondent for demolition and reconstruction and accordingly, the respondent Corporation has accorded planning permission and building permit dated 05.08.2016. While so, on the complaint of the 8th respondent herein, the respondents 6 and 7 issued a Notice dated 22.01.2019 calling upon the approved plan followed by the Lock and Seal and Demolition Notice dated 09.02.2019. Therefore, the petitioner preferred an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent. However, the same was rejected by the 2nd respondent with a direction to the respondents 3 and 4 to take further action. Aggrieved by the same, the petitioner has preferred a Review Petition before the 1st respondent under Section 81 of the Tamil Nadu Town and Country Planning Act, 1971. Since the same has been pending consideration before the 1st respondent, the petitioner has approached this Court with the present Writ Petition.



3. Mr.K.V.Sajeew Kumar, learned Special Government Pleader takes notice for respondents 1 and 2 and Mrs.C.Sumathi, learned Counsel takes notice for 3rd respondent and Mr.Raja Shrinivas, learned Standing Counsel takes notice for respondents 4 to 7.

4. Learned Special Government Pleader for the respondents 1 and 2 and the learned Standing Counsel for the respondents 4 to 7 have jointly stated that the petitioner's Review application filed is not maintainable and there is no provision permitting the petitioner to file a Review Application since the Special Revision filed by him under Section 80-A of the Act was rejected by the 1st respondent long time ago. However, if the petitioner comes with an undertaking that he would rectify the defects and thereafter, also seek for fresh planning permission, they will not stand in the way.

5. Recording the said joint submissions made by the learned Special Government Pleader for the respondents 1 and 2 and the learned Standing Counsel for the respondents 4 to 7, we hereby direct the respondents 4 to 7 to de-seal the building of the petitioner within a period of one week and the petitioner as prayed before us is permitted to rectify the defects as per the approved plan within a period of four months from the date of de-sealing of the building. It is made clear that if the petitioner fails to rectify the defects as per the approved plan, within a period of 4 months, the respondents 4 to 7 shall proceed further in accordance with law for re-sealing the building-in-question.

6. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

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



2.The Additional Secretary to Government (Technical),
Housing and Urban Development Department,
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3.The Member Secretary,
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6.The Assistant Executive Engineer,
Unit-16, Zone-VII,
Greater Corporation of Chennai,
No.5, Anderson Road, Ayanavaram,
Chennai-600 023.

7.The Assistant Engineer,
Greater Corporation of Chennai,
Division-68, Unit-16, Zone-VII,
No.5, Anderson Road, Ayanavaram,
Chennai-600 023.

+1cc to Mr.S.Santhan, Advocate SR. No. 30157

+1cc to Mr.K.Raja Shrinivas, Advocate SR. No. 29508

+1cc to Government Pleader SR. No. 30927

W.P.No.10385 of 2022

AJB (CO)
PR (13/05/2022)