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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

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

W.P.No.10970 of 2022

A.Deepak Kumar

... Petitioner

vs

1.The Commissioner,
The Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 001.

2.The Executive Engineer,
Zone-V,
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 affixed on 29.03.2022 in the petitioner's property situated at New No.26, Old No.81, Godown Street, Kothavalchavadi, Sowcarpet, Chennai - 600 001 so as to enable the petitioner to carry out rectification works of the building in consonance with the sanctioned planning permission on par with the present Tamil Nadu Combined Development and Building Rules 2019, on the basis of the petitioner's representation dated 29.03.2022.

For Petitioner :Mr.L.Chandrakumar

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



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 respondents to forthwith remove the lock and seal affixed on 29.03.2022 in his property, situated at New No.26, Old No.81, Godown Street, Kothavalchavadi, Sowcarpet, Chennai - 600 001 so as to enable him to carry out rectification works of the building in consonance with the sanctioned planning permission on par with the present Tamil Nadu Combined Development and Building Rules 2019, on the basis of his representation dated 29.03.2022.

2.Learned counsel appearing for the petitioner submitted that the petitioner is the absolute owner of the subject property, situated at New No.26, Old No.81, Godown Street, Kothavalchavadi, Sowcarpet, Chennai - 600 001, having purchased the same vide registered Sale Deed dated 02.03.2020, bearing Document No.224/ 2020. Learned counsel for the petitioner further submitted that the petitioner had started the construction work of the subject property, after obtaining planning permission from the respondents for the construction of stilt + 2 floors for putting up a commercial building. While so, the second respondent issued a Stop Work Notice dated 27.07.2021, followed by a Lock and Seal and Demolition Notice dated 31.08.2021 alleging un-authorized construction. Pursuant to the same, the petitioner had given a detailed reply narrating the material facts. In spite of the same, the second respondent had issued lock and seal and demolition notice, calling upon the petitioner to restore the building in compliance with the approved plan within 30 days from the date of receipt of the above notice. Pursuant to the above said notice, the petitioner's superstructure was locked and sealed by the second respondent on 29.03.2022 without any notice. Learned counsel for the petitioner further submitted that the petitioner, who is a bonafide purchaser of the subject property, has been actively taking steps to rectify the building as per the sanctioned planning permission on par with the Tamil Nadu Combined Development and Building Rules 2019. Though the representation 29.03.2022 was given to the respondents in this regard, the same has not been considered by them. Therefore, he is before this Court with the above prayer. Learned counsel for the petitioner further submitted that the petitioner undertakes to carry out the necessary rectification works and not to put up any additional construction, without prior permission from the



authorities concerned. Therefore, 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.

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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:



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'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, we are inclined to grant three months' time to the petitioner to rectify the defects pointed out by the respondents. 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 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

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vga

To

1.The Commissioner,
The Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 001.



2.The Executive Engineer,

Zone-V,

The Greater Chennai Corporation,

Ripon Building,

Chennai - 600 001.

+1cc to Mr.K.Raja Shrinivas, Advocate Sr.29512

W.P.No.10970 of 2022

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srg 12/05/2022