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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM

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

W.P.No.11292 of 2022 and
W.M.P. Nos.10848 and 10849 of 2022

C.Veeraraghavan

... Petitioner

vs

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

2.The Member - Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai 600 008.

3.The Commissioner,
Thiruverkadu Municipality,
No.1, Sivan Koil Street,
Thiruverkadu,
Chennai - 600 077.

4.Sri Lakshmi Builders,
represented by its Proprietor
Muthukumar (Builder),
No.7A, Balaji Nagar Thandalam,
Chennai - 600 077.

5.M/s.Bajaj Finance Limited,
1st Floor, SB Complex,
W115, 3rd Avenue,
Opp. to Kandhaswamy College,
Anna Nagar, Chennai - 600 040.

6.P.Rajendran

7.Banupriya

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the



records of the impugned order dated 11.02.2022 passed by the first respondent bearing Letter No.4644/UD-VI(2)/2021-6 and quash the same and consequently direct the third respondent to pass orders on the application seeking for revised plan submitted by the fourth respondent under Section 56(3) read with Section 49 of the Tamil Nadu Town and Country Planning Act within a time frame as may be fixed by this Court.

For Petitioner : Mr.L.Chandra Kumar

For Respondents : Mr.K.Karthik Jaganathan,
Government Advocate
for R1 and R3

Mrs.P.Veena Suresh,
Standing Counsel for CMDA/R2

ORDER

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

The petitioner has come to this Court with this writ petition, challenging the Letter No.4644/UD-VI(2)/2021-6 dated 11.02.2022 issued by the Additional Secretary to Government, Housing and Urban Development Department, Chennai, the first respondent herein and seeking a direction to the Commissioner, Thiruverkadu Municipality, Thiruverkadu, Chennai, the third respondent herein to pass orders on the application seeking for revised plan submitted by the fourth respondent under Section 56 (3) read with 49 of the Tamil Nadu Town and Country Planning Act within a time frame as may be fixed by this Court.

2.Learned counsel appearing for the petitioner submitted that the petitioner is the absolute owner of the subject property, bearing No.G-1, measuring to an extent of 309 sq.ft., comprised in Survey No.140/1 part, Moovendhar Nagar Phase-I, Noombal Village, Ambattur Taluk, Thiruverkadu Municipality, situated at Plot No.79, 2nd Street, Moovendar Nagar, Noombal, Chennai-77 and the same was constructed by the fourth respondent builder, namely, Sri Lakshmi Builders, represented by its Proprietor Muthukumar. Pursuant to the planning permission issued by the third respondent for the construction of the property vide Planning Permission dated 27.03.2013, the petitioner, who is the bonafide purchaser, has purchased the above property, believing it to be genuine on the statement made by the builder. While so, the third respondent herein issued a Stop-work notice calling for approved plan with regard to the subject property. Pursuant to the lock and seal and demolition notice dated 01.03.2021, the petitioner has preferred an Appeal/Revision before the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. After



dismissal of the same, the petitioner has filed an Application under Section 49 of the Act seeking for rectification of the deviated portion so that he can restore the building as per the planning permission. When the said application is pending before the first respondent, the respondents cannot proceed to take coercive action.

3.Learned Government Advocate appearing for respondents 1 and 3 submitted that instead of mentioning Section 49, the petitioner has wrongly mentioned as Section 80-A application. Therefore, the petitioner may be directed to file a fresh Application under Section 49 of the Act and a direction may be given to the Commissioner, Thiruverkadu Municipality, the third respondent herein to dispose of the Application to be filed by the petitioner under Section 49 of the Tamil Nadu Town and Country Planning Act, on merits, within a period of eight weeks.

4.Therefore, the petitioner is permitted to file a fresh application under Section 49 of the Tamil Nadu Town and Country Planning Act within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the Commissioner is directed to consider and dispose of the same, within a period of eight weeks thereafter. With the above direction, this writ petition stands disposed of. Consequently, W.M.P. Nos.10848 and 10849 of 2022 stand closed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

vga

To

- 1.The Additional Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.
- 2.The Member - Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai 600 008.
- 3.The Commissioner,
Thiruverkadu Municipality,
No.1, Sivan Koil Street,
Thiruverkadu, Chennai - 600 077.



+1cc to Mr.L.Chandra Kumar, Advocate SR.No.29967

+1cc to Mrs.P.Veena Suresh, Advocate SR.No.30163

+1cc to Government Pleader SR.No.31004

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W.P.No.11292 of 2022 and
W.M.P. Nos.10848 and 10849 of 2022

RSV (CO)
GMY (25/05/2022)