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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

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

W.P.No.11165 of 2022

M.Mariya Savari

... Petitioner

vs

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai.
- 2.The Executive Engineer,
Zone-XIV, Div-185,
Greater Chennai Corporation,
No.6/64, Puzhuthivakkam Main Road,
Perungudi,
Chennai - 600 091.

... 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 31.07.2021 in the petitioner's property situated at No.96 and 97, Plot No.43, Kandasamy Nagar, Palavakkam Village, Kanchipuram District, so as to enable the petitioner to carry out rectification works of the building in consonance with the sanctioned planning permission in par with the present Tamil Nadu Combined Development and Building Rules 2019.

For Petitioner : Ms.T.Kalaimathi

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



ORDER

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

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The petitioner has come to this Court with this writ petition seeking a direction to the respondents to forthwith remove the lock and seal affixed on 31.07.2021 in his property, situated at Nos.96 and 97, Plot No.43, Kandasamy Nagar, Palavakkam Village, Kanchipuram District, 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.

2.Learned counsel appearing for the petitioner submitted that the petitioner is the absolute owner of the property, situated in Survey Nos.96 and 97, Plot No.43, Kandasamy Nagar, Palavakkam Village, Kanchipuram District, having purchased the same vide Document No.1321/1999 dated 08.06.1999. After obtaining planning permission from the Municipality, the subject property was put up by the petitioner and ever since he is in peaceful possession and enjoyment of the same and has been paying necessary taxes without any default. While so, the official respondent inspected the premises and alleged certain deviations and violations in the subject premises from the sanctioned plan in the construction and thereafter, the subject premises came to be locked and sealed by the respondents on 31.07.2021. Therefore, the petitioner made several representations to the respondents stating that he would rectify the violation as per the planning permission and he had also filed a Writ Petition in W.P. No.5100 of 2020 before this Court seeking a direction to the respondents therein to remove the lock and seal in respect of his premises and this Court, by order dated 28.02.2020, disposed of the above writ petition, directing the respondents therein to remove the lock and seal in respect of his premises. Due to Covid-19 pandemic situation, the petitioner was unable to rectify the deviations. Therefore, he has filed another Writ Petition in W.P. No.10544 of 2021 seeking the above direction and this Court, by order dated 29.04.2021, granted extension of time till 31.07.2021 to enable him to rectify the deviations. Since the petitioner was not able to rectify the entire building within the time stipulated by this Court, now the petitioner is before this Court with the above prayer. Learned counsel for the petitioner further submitted that a reasonable time may be granted to the petitioner to rectify the deviations.



3.Heard both sides.

4.Since this Court vide orders dated 28.02.2020 and 29.04.2021 in W.P. Nos.5100 of 2020 and 10544 of 2021, disposed of the above writ petitions, directing the respondents therein to remove the lock and seal in respect of petitioner's premises and granting sufficient time to the petitioner to carry out the deviations found by the respondents, due to Covid-19 pandemic situation, followed by restrictions imposed by the Central and State Government, the petitioner was unable to rectify the deviations. Since the lock and seal notice dated 31.07.2021 issued by the competent authority, 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:-

'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 deviations found by the respondents. Accordingly, the second respondent is hereby directed 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 direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

vga



To

1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai.

2.The Executive Engineer,
Zone-XIV, Div-185,
Greater Chennai Corporation,
No.6/64, Puzhuthivakkam Main Road,
Perungudi,
Chennai - 600 091.

+1cc to M/s.G.Rajesh Advocate sr30032
+1 cc to Mr.K.Raja Shrinivas Advocate sr30400
+2 cc to M/s.Rajesh Advocate sr30303 dt 08/06/2022

W.P.No.11165 of 2022

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