



W.P.No.10397 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.10397 of 2020
and
W.M.P.No.12647 of 2020

D.Surendar

...Petitioner

Vs.

1.The Secretary to Government of Tamil Naud,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Salai, Egmore,
Chennai – 600 008.

3.The Commissioner-cum-For Member Secretary,
St.Thomas Mount Panchayat Union,
Office of Chitlapakkam,
Chennai – 600 064.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Certiorarified Mandamus, calling for the



W.P.No.10397 of 2020

records of the impugned order vide Letter No.14839/UD-VII(2)/2019-5 dated 20.05.2020 passed by the first respondent and to quash the same and consequently direct the respondents to permit the petitioner to continue with construction in terms of planning approval vide Pa.Mu.2619/2019/a4 dated 30.04.2019 granted by the third respondent after rectifying the defects of renovating the existing old structures in the light of paragraph 3 of the order passed by this Court in W.P.No.10507 of 2019 dated 29.07.2019.

For Petitioner : Mr.D.Murthy

For Respondents : Mr.Vadivelu Deenadayalan,
Additional Government Pleader for R1

Ms.P.Veenasureh for R2

Mr.K.V.Sajeev Kumar for R3

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Heard Mr.D.Murthy learned counsel for the petitioner,
Mr.Vadivelu Deenadayalan, learned Additional Government Pleader for the
1st respondent, Ms.P.Veenasureh, learned counsel for the 2nd respondent and
Mr.K.V.Sajeev Kumar, learned counsel for the 3rd respondent.



W.P.No.10397 of 2020

2. The petitioner challenges the order of the Government rejecting his revision under Section 80-A of the Tamil Nadu Town and Country Planning Act.

3. Challenge in the said revision was to the stop work notice issued by the local Authority viz., The Commissioner of St.Thomas Mount Panchayat Union dated 20.06.2019. The petitioner had obtained a planning permission for construction of residential building in the site which is situate behind the existing building which also belonged to the petitioner. While obtaining the planning permission, he had shown the site where building is situate as vacant and meant for road widening. Since the petitioner commenced the construction without demolishing the existing construction, the notice came to be issued. The Government refused to accept the contention of the petitioner that he would remove the building after completing the construction, which has now been approved. The rejection was mainly made on the ground that the land over which the existing building was constructed was shown as place meant for road extension.



W.P.No.10397 of 2020

4. The petitioner has now filed an affidavit undertaking not to commence construction without demolishing the existing building. Once the existing building is demolished, the objection that found favour with the Government to reject the revision of the petitioner would not survive.

5. Therefore, the writ petition is **partly allowed** with a direction that the petitioner will remove the existing construction before starting construction as per the newly approved plan. If the petitioner constructs without demolishing the existing construction, it will be open to the Authorities to take appropriate action as per law. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M.,J.) (K.B.,J.)
02.12.2022

dsa
Index : No
Internet : Yes
Speaking order



W.P.No.10397 of 2020

To:-

1. The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Salai, Egmore,
Chennai – 600 008.
3. The Commissioner-cum-For Member Secretary,
St. Thomas Mount Panchayat Union,
Office of Chitlapakkam,
Chennai – 600 064.



WEB COPY



W.P.No.10397 of 2020

R.SUBRAMANIAN, J.
and
K.KUMARESH BABU, J.

dsa

W.P.No.10397 of 2020

02.12.2022