



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2022

CORAM

THE HON'BLE MR. JUSTICE R.MAHADEVAN
AND
THE HON'BLE MRS. JUSTICE S.ANANTHI

W.P.No.12043 of 2022
and
W.M.P.No.11466 of 2022

Rufus

..Petitioner

Vs

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

..Respondent

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to take up the stay application filed in statutory revision preferred under Section 81(4) of the Tamil Nadu Town and Country Planning Act vide acknowledgment dated 22.04.2022 preferred as against impugned order dated 29.03.2022 passed by the respondent in Letter No.7771/UD-VI(2)/2021-5, which was communicated to the petitioner on 19.04.2022.

For Petitioner : Mr.Govardhan
for Mr.R.Thirumoorthy

For Respondent : Mrs. Raja Rajeswari
Government Advocate

ORDER

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

The relief sought in this writ petition is to issue a writ of mandamus, directing the respondent to take up the stay application filed in the review preferred by the petitioner under Section 81(4) of the Tamil Nadu Town and Country Planning Act against the order dated 29.03.2022 passed by the respondent in Letter No.7771/UD-VI(2)/2021-5, which was communicated to him on 19.04.2022.



2. It is the case of the petitioner that he has been in absolute possession of the property bearing Door No.4/45, New No.5/110, Perumal Koil Street, Nerkundram, Chennai. While so, he was issued with notice dated 20.10.2016 under sections 56(1) and 57 r/w 85 of the Tamil Nadu Town and Country Planning Act, 1971, by the Executive Engineer Zone XI, Assistant Executive Engineer Unit 33, Assistant Engineer Division 145, requiring locking, sealing and demolition of the unauthorised construction put up without planning permission as required under section 49 of the said Act. Upon receipt of the same, he submitted his reply dated 07.11.2016. Without considering the explanation officer by the petitioner, he was issued with lock and seal and demolition notice dated 07.05.2021. Challenging the same, he preferred an appeal dated 13.05.2021 to the respondent. However, without providing reasonable opportunity to the petitioner, the said appeal was rejected by order dated 29.03.2022, which was communicated to the petitioner on 19.04.2022. Aggrieved over the same, he filed a review along with stay application, which is pending without any progress. Apprehending that any coercive steps would be taken against the petitioner, he has come up with this writ petition for the aforesaid relief.

3. Heard Mr.Gowvardhan, learned counsel representing Mr.R.Thirumoorthy, learned counsel on record for the petitioner and Mrs.Raja Rajeswari, learned Government Advocate appearing for the respondent.

4. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel for both sides, this Court, without expressing any opinion on the merits of the case, directs the respondent to dispose of the stay application filed by the petitioner, if not disposed of earlier, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken by the respondent against the petitioner.

5. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer

True Copy//

Sub Assistant Registrar



mmi/nsd

To

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

+1cc to the Government Pleader, S.R.No.31297

W.P.No.12043 of 2022

AJS[co]
NSK/02/06/2022