



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.21438 of 2021

K.Soundarajan

...Petitioner

Vs.

- 1.The Director,
Directorate of Town and Country Planning,
Head Office No.807,
Anna Salai, Chennai,
Tamil Nadu - 600 002.
 - 2.The Commissioner,
Directorate of Town and Country Planning,
Head Office No.807,
Anna Salai, Chennai,
Tamil Nadu - 600 002.
 - 3.The Secretary,
Municipal Administrations and Water Supply Department,
Government of Tamil Nadu,
Namakkal Kavingar Maaligai,
Fort St. George,
Chennai - 600 009.
 - 4.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.
 - 5.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
 - 6.M/s Dwaraka Doss Goverdhan Doss Vaishnav College,
Dewan Bahadur M.O. Parthasarathy Iyangra's Charities,
No.20, 4th Lane, Thousand Lights West,
Thousand Lights, Chennai,
Tamil Nadu 600 034.
- ...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 to 5 to take action to demolish the unauthorized construction put up by the 6th respondent college in Survey No.51/2, situated at Block No.10, Nungambakkam village, Egmore Circle, Chennai District based on the letter No.G/PIO/4231/2021 dated 23.06.2021 of the 5th respondent.

For petitioner : Mr.A.Thiyagarajan
for Mr. S.Saravanan

For respondents : Mr.K.V.Sajeevkumar
Spl. Govt. Pleader for R1 to R3

Mr.K.Raja Shrinivas
Senior Standing Counsel for R4

Mrs.Veena Suresh for R5

Mr.K.Shakespeare for R6

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

Heard Mr.A.Thiyagarajan, learned counsel assisted by Mr.S.Saravanan, learned counsel for the petitioner, Mr.K.V.Sajeevkumar, learned Special Government Pleader appearing for the respondents 1 to 3, Mr.K.Raja Shrinivas, learned Senior Standing Counsel appearing for the fourth respondent, Mrs.P.Veena Suresh, learned counsel appearing for the fifth respondent and Mr.K.Shakespeare, learned counsel appearing for the sixth respondent.

2.The prayer sought for in this writ petition is to issue a Writ of Mandamus directing the respondents 1 to 5 to take action to demolish the unauthorized construction put up by the 6th respondent college in Survey No.51/2, situated at Block No.10, Nungambakkam Village, Egmore Circle, Chennai District, based on the letter No.G/PIO/4231/2021 dated 23.06.2021 of the 5th respondent.

3.The case of the petitioner is that with regard to the title of the subject property, a suit in O.S.No.11864 of 2010 is pending before the V Additional City Civil Court, Chennai. He further stated that he made an application under the Right to Information Act to the Public Information Officer, Chennai



Metropolitan Development Authority, the fifth respondent herein seeking details with regard to the planning permission in respect of the buildings constructed by the 6th respondent, for which, a reply was given stating that the fifth respondent has not issued any planning permission. On the basis of the reply of the fifth respondent, this writ petition has been filed.

4. In the counter filed by the fifth respondent, it is stated that a planning permission was issued for construction of ground + 2 floors at the subject property and the application for regularization for ground floor + 4 was rejected on 16.08.2013. It is also stated that on verification, they found ground floor + 5 floors in the subject property. An application filed for regularization of the building under Section 113-C of the Tamil Nadu Town and Country Planning Act, is pending.

5. It is the submission of the learned counsel appearing for the fifth respondent that as per the direction issued by the Hon'ble First Bench of this Court, if the revised plan applications are filed for the building constructed before 1999, the fifth respondent/CMDA can process and issue planning permission in accordance with law. However, if the buildings are constructed after 1999, as per the order of the Division Bench, the applications could be entertained, but no final decision can be taken.

6. It is the submission of the learned counsel appearing for the 6th respondent that the buildings were constructed in between 1992 and 1999 i.e., before the cut off date and hence, there is no bar for the 5th respondent to take decision on the revised planning application submitted by the 6th respondent.

7. In the light of the submission of the learned counsels, this Court without going into the merits of the matter, directs the fifth respondent to pass orders on the revised application filed by the sixth respondent on 27.04.1999 in accordance with law, after affording an opportunity of personal hearing to the sixth respondent.

8. With the above observations and direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

skn



To

- 1.The Director,
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Head Office No.807,
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- 4.The Commissioner,
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- 5.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mrs.Veena Suresh, Advocate SR.No.6936

+1cc to Mr.K.Shakespeare, Advocate SR.No.7181

+1cc to Mr.S.Saravanan, Advocate SR.No.7213

W.P.No.21438 of 2021

MT(CO)
GMY(08/03/2022)