



WEB COPY



Cont.P.No. 27 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.09.2022

DELIVERED ON : 06.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Cont. P. No. 27 of 2022

and

W.P. No. 5369 of 2021

C.Bosco

... Petitioner

Versus

T.Enian,
Executive Engineer,
Corporation of Chennai,
Regional Office – Central,
2nd Cross Street, Pulla Avenue,
Shenoy Nagar,
Chennai-600 030.

... Respondent

Prayer : Contempt Petition has been filed under Section 11 of Contempt of Court Act, 1971, praying to punish the 4th respondent for not complying with the directions of this Hon'ble Court in W.P.No.5369 of 2021.

For Petitioner : Mr.M.Devaraj

For Respondent : Mr.S.Gopinathan



Cont.P.No. 27 of 2022

ORDER

(delivered by **T.V.THAMILSELVI, J.**)

WEB COPY

The petitioner has filed a Writ Petition seeking a direction directing the 2nd respondent to regularise petitioner's building vide Application CDA/Reg-113C/133/2017 dated 19.12.2017 as per 1st respondent's order in Letter No.17407/UD-VI(2)/2016-3, dated 07.10.2016 and in light of the judgment passed by the Division Bench of this Court in W.P.No.27767 of 2018 within a time fixed by this Court.

2. The contention of the petitioner is that he purchased the property to an extent of 1200 sq.ft. along with building having plinth area of 500 sq.ft. through a registered sale deed dated 19.12.2011 from his vendor Nallakathala Samuel. Thereafter, the superstructure was assessed to property tax and also made mutation in the revenue records. Subsequently, he let out his property to one Rahim for commercial purpose and necessary license was obtained from Corporation by the tenant for running his restaurant. While so, on 17.09.2014, the 4th respondent issued notice calling upon the tenant to produce the approved plan alleging that there has been a



Cont.P.No. 27 of 2022

deviation in the said construction and also directed to remove the unauthorised portion of construction within 3 days. He, being owner of property gave a detailed reply to the said notice, but the same was not considered and de-occupation notice was issued on 28.04.2015 by the 4th respondent. Challenging the said notice, he filed a Writ Petition before this court in W.P.Nos.31381 and 31382 of 2016 and the Division Bench of this court vide common order dated 14.09.2016 disposed of the Writ Petitions and directed him to file a revision within 15 days from the date of receipt of order.

3. The further contention of petitioner is that as per the said direction, he preferred revision petition before the appellate authority i.e. 1st respondent on 26.09.2016 and in that revision petition, on 17.10.2016 an order was passed to de-seal the premises for the period of six months to carry out rectifications in the building, subject to furnishing of an undertaking that during the period of de-sealing, the premises shall not be used for occupation purpose. Accordingly, he carried out rectification work and communicated the same to the authorities concerned. But, the 4th



Cont.P.No. 27 of 2022

respondent not satisfied with his rectification, continuously threatening him that the building will be sealed if occupied. Hence, he filed the above Writ Petition seeking a direction directing the 2nd respondent to regularise his building as per 1st respondent's order dated 07.10.2016 and in the light of judgment of Division Bench of this Court in W.P.No. 27767 of 2018.

4. The petitioner's further contentions that this Court vide interim order dated 19.03.2021 was pleased to direct the 4th respondent to cause re-inspection of the property and to file a status report on payment of necessary for the said re-inspection. Subsequently, this Court vide final order dated 22.06.2021 was pleased to issue a direction directing the petitioner to file an application for approval within a period of two weeks from the date of receipt of a copy of the order and thereafter, the fourth respondent shall process such application and do necessary acts for grant of approval within a period of six weeks. As per the direction of Division Bench of this Court, the petitioner filed an application through the Corporation website for approval of his building for commercial/departmental store within the stipulated period, but the said application was deliberately rejected by the 4th



Cont.P.No. 27 of 2022

respondent stating that the petitioner has not complied with the Tamil Nadu Combined Development and Building Rules, 2019. Thereafter, he sent a representation dated 18.08.2021 to the 4th respondent to recall the order dated 07.08.2021 rejecting the application and to grant approval for the building as per the 1st respondent's order as well as the directions of the Division Bench of this Court, but the same was not honoured. Thus, the attitude of the 4th respondent is contemptuous in nature and they have also disobeyed the order of Division Bench of this court. Hence, he prayed to take necessary action and punish them for contempt of court.

5. As per the status report filed by the respondent Greater Chennai Corporation, it reveals that till date, the petitioner herein has not filed any application for demolition and reconstruction of the building at No.10/1, Ormed Road, Kilpauk, Chennai-10 pursuant to the order of this court dated 18.07.2022 passed in the above Contempt Petition. It is also seen that as per the application for approval of commercial building submitted by the petitioner through online, they found that the plan copy submitted by the petitioner does not fulfill the eligibility criteria as per the provisions of



Cont.P.No. 27 of 2022

Tamil Nadu Combined Development and Building Rules, 2019. Therefore, as he has not complied the said provisions, the application for approval of commercial building was rejected.

6. By way of reply, the learned counsel for petitioner would submit that the petitioner purchased a very old building and at that time, no approved plan and now, he want to use the building for commercial purpose. So, he applied for approval, but the authority concerned not accepted his application inspite of direction given by the Division Bench of this court. But, as per the submissions made by the authority concerned, it reveals that the application submitted by the petitioner does not fulfill the eligibility criteria as per the provisions of Tamil Nadu Combined Development and Building Rules, 2019. Furthermore, as per the plan submitted by the petitioner, there is no site setback and there is no ventilation and also not provided a space for parking two wheelers, which are mandatory requirement for the approval of commercial building, however, inspite of opportunity, the petitioner has not submitted the application along with the said particulars. Therefore, the authorities



Cont.P.No. 27 of 2022

concerned rightly rejected the petitioner's application, which needs no interference and there is no willful disobedience on the part of the authority concerned. Accordingly, this Contempt Petition is dismissed as no merits.

(S.V.N., J) (T.V.T.S.J., J)

06.12.2022

Speaking order/Non speaking order

Index: Yes/No

Internet: Yes/No

rpp

To

Mr.T.Enian,
Executive Engineer, Corporation of Chennai,
Regional Office – Central, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai-600 030.



WEB COPY



Cont.P.No. 27 of 2022

**S.VAIDYANATHAN, J.,
AND
T.V.THAMILSELVI, J.**

rpp

Cont. P. No.27 of 2022
in
W.P. No. 5369 of 2021

06.12.2022