



W.P.No.12909 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.12909 of 2023 and

WMP No.12697 of 2023

D.Madhusudhanan

... Petitioner

Vs.

1. State rep. by Additional Secretary (Technical),
Housing & Urban Development Department,
Fort St. George, Chennai 600 009.
2. The Principal Secretary/Commissioner,
Greater Chennai Corporation,
Chennai 600 003.
3. The Superintendent Engineer, Town Planning and
Country Development Department,
Greater Chennai Corporation, Chennai 600 003.
4. The Executive Engineer, Zone-13,
Greater Chennai Corporation,
Adayar, Chennai 600 020.

... Respondents



W.P.No.12909 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ Certiorarified Mandamus, calling for the records on the file of the first respondent in his proceedings letter No.14880/UD-VII(1)/2022-4 dated 11.04.2023 and quash the same as illegal, unconstitutional, and null and void consequently direct the second and third respondents to approve the revised plan submitted by the petitioner dated 3.2.2023.

For Petitioner : Mr.S.Venkatesh

For Respondents : Mr.E.Vijay Anand,
Additional Govt.Pleader for R1

Mr.D.B.R.Prabhu, standing counsel
for respondents 2 to 4.

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This writ petition has been filed to quash the proceedings of the first respondent in letter No.14880/UD-VII(1)/2022-4 dated 11.04.2023 and consequently, direct the second and third respondents to approve the revised plan submitted by the petitioner dated 3.2.2023.



W.P.No.12909 of 2023

2. The petitioner had purchased a vacant land bearing Plot No.55, VGP Selva Nagar measuring to an extent of 2800 sq.ft. and he had obtained planning approval dated 04.03.2022 from the second respondent for construction of the building. While the construction was at half stage, the 4th respondent has issued lock and seal and demolition notice dated 29.07.2022, pointing out some deviations to the approved plan. Immediately, the petitioner has filed an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the first respondent on 23.08.2022 to regularize the deviations, which are negligible in nature. Further, the petitioner has also filed a revised plan, after rectifying all the defects, pointed out in the Lock and Seal and Demolition notice before the third respondent on 3.2.2023. In the meanwhile, the first respondent, without appreciating the case of the petitioner, had dismissed the appeal petition on 11.04.2023. Hence this writ petition has been filed.

3. The learned Standing Counsel appearing for second respondent fairly submitted that as per the proviso to Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998, the Commissioner of Corporation has power



W.P.No.12909 of 2023

to regularize the deviation of the construction of the building and therefore, if the petitioner gives a fresh application under the above said provision, the same will be considered and appropriate order will be passed by the Commissioner of Corporation.

4. Inview of the above submission made by the learned Standing Counsel appearing for the second respondent, liberty is granted to the petitioner to make a fresh application under Section 135 of the Tamil Nadu Urban Local Bodies before the Commissioner of Greater Chennai Corporation, within a period of one week from the date of receipt of a copy of this order and on such application being received, the second respondent is directed to consider the same and pass order on its own merits and in accordance with law, without any further delay. It is made clear that, in the meantime, the petitioner shall not put up any further construction in the property in question.



W.P.No.12909 of 2023

5. With the above direction, this writ petition is disposed. No costs.

Consequently, connected miscellaneous petition is closed.

(D.K.K.J.)

(P.D.B.J.)

16.06.2023

Internet: Yes/No

Index : Yes/No

mst

To

1. The Additional Secretary (Technical), State of Tamilnadu,
Housing & Urban Development Department,
Fort St. George, Chennai 600 009.
2. The Principal Secretary/Commissioner,
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Chennai 600 003.
3. The Superintendent Engineer, Town Planning and
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W.P.No.12909 of 2023

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W.P.No.12909 of 2023

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