



W.P.No.13947 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.13947 of 2018

Tamil Nadu Asiriyar Koottani Trust,
Represented by its Chairman Mr.S.Muthusami,
No.3/28, Blackers Road,
Mount Road,
Chennai-600 002.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by Secretary to the Government,
Housing and Urban Development (UD-4)
Department,
Fort St. George,
Chennai-600 023.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

3.The Zonal Officer,
Zone Office-V
Corporation of Chennai,
61, Basin Bridge Road,
Chennai-21.



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4.Mr. Suresh Kumar
5.Mr.Chandran Kumar
6.Mr.Naresh Kumar

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the respondents 1 to 3 to remove the unauthorized construction put up on terrace of the building bearing Door No.3/28, Blackers Road, Chennai-2.

For Petitioner	: Mr.R.Saseetharan
For Respondents	: Mr.A.Selvendran Special Government Pleader for first respondent Mr.A.C.Manibharathi Standing Counsel for Corporation for respondents 2 and 3 Mr.Vishnumohan for respondents 4 to 6

ORDER

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

This Court, by order dated 27.04.2023, has directed the first respondent to dispose of the appeal dated 15.04.2008, with the following direction:

"6. Therefore, we direct the 1st respondent to dispose of the appeal, after hearing the petitioner as well as the respondents 4 to 6 and the officials of the Corporation and pass an order on or before



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31.05.2023. The result of the hearing shall be reported to this Court on 05.06.2023. It is made clear that appellate authority is at liberty to reject any request for adjournment which he might feel, is a dilatory tactics. We direct that the hearing shall commence from 15.05.2023 and the petitioner as well the respondents 4 to 6 or their authorised representatives shall appear before the appellate authority on that date. The officials of the corporation shall also be present before the appellate authority on 15.05.2023. If the appellate authority feels that the matter requires some more time for consideration, he is at liberty to do so, but, in any event, he has to pass orders on or before 30.05.2023."

2. Today, Mr.A.Selvendran, learned Government Pleader has informed the Court that the said appeal, dated 15.04.2008 could not be disposed of, for the reason that the Corporation has not forwarded the appeal papers to the Government. Originally, the powers were vested with the Corporation, under the provisions of the Chennai City Municipal Corporation Act, 1919, to dispose of the appeal, but now under the amended rules, the power to dispose of the appeal is vested with the Government under the provision of Tamil Nadu Town and Country Planning Act, 1971. Therefore, the Government has passed an order dated 29.05.2023, directing the Greater Chennai Corporation, to forward the appeal papers to the Government to dispose the said



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appeal, in the light of the order passed by this Court, dated 27.04.2023.

3. Mr.A.C.Manibharathi, learned Standing Counsel, for the Corporation, appearing for respondents 2 and 3, has informed the Court that the said appeal papers could not be traced out and therefore, he seeks respondent 4 to 6 to furnish the copy of the appeal papers for forwarding it to the Government, for taking appropriate action, in compliance with the earlier order passed by this Court.

4. Mr.Vishnumohan, learned counsel for the respondents 4 to 6 has agreed with the said submission made by the learned counsel appearing for the Corporation and learned Special Government Pleader and undertakes that the copy of appeal petition, dated 15.04.2008, will be furnished to the first respondent/Government, within a period of one week from today.

5. Both the parties have agreed to modify the earlier order



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passed by this Court. Therefore, considering the above said fact and submissions made on behalf of the parties, this Court is inclined to pass modified order as follows:

i) The respondents 4,5, and 6 are directed to submit a copy of appeal petition dated 15.04.2008 to the first respondent/Government, within a period of one week from today.

ii) On receipt of the said appeal petition, the first respondent/Government, is directed to commence the enquiry on the aforesaid appeal and conclude the proceedings, as early as possible, within a period of eight weeks from the date of receipt of copy of appeal petition.

iii) It is needless to say that the first respondent shall provide an opportunity to the petitioner as well as the respondents 4,5 and 6 before concluding the said appeal.

6. With the above modification of the order, the writ petition stands disposed of. We may it clear that, if the respondents 4,5 and 6, do not submit the said appeal petition within a period of one week from today, it is always open to the respondents to proceed in accordance with law. There will be no order as to costs. Consequently,



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W.M.P.No.16473 of 2018, is closed.

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[D.K.K., J.] [P.D.B., J.]
07.06.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Secretary to the Government,
The Government of Tamil Nadu,
Housing and Urban Development (UD-4)
Department,
Fort St. George,
Chennai-600 023.
- 2.The Commissioner,
Corporation of Chennai,
Rippon Building,
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