



W.P.No.17082 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.17082 of 2023

Vatchala

... Petitioner

Vs.

1. The Commissioner,
Tambaram Municipal Corporation,
Tambaram, Chennai 600 045.

2. Ethiraj

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 26.04.2023 and pass orders and take legal action in accordance with Section 56, 57 r/w 85 of the Tamil Nadu Town and Country Planning Act, 1971 (as amended by the Act 61 of 2018).

For Petitioner : Mr.S.Anandakumar

For Respondents : Mr.P.Srinivas, Standing Counsel for R1



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ORDER

WEB COPY

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

This Writ Petition has been filed to direct the first respondent to consider the representation of the petitioner dated 26.04.2023 and take legal action in accordance with Section 56, 57 r/w 85 of the Tamil Nadu Town and Country Planning Act, 1971 (as amended by the Act 61 of 2018).

2. The petitioner had purchased a CMDA approved residential building situated at Plot No.2, Annai Aravindhar Street, Ashtalakshmi Nagar, West Tambaram, Chennai 600 045. The 2nd respondent had purchased a land together with small house building, situated adjacent on the eastern side of the petitioner's property bearing Plot No.1 (Part) by a sale deed No.2169/2005. During the year 2017 to 2019, the 2nd respondent had demolished the existing small building and constructed an unauthorized building, without following CMDA or local body authority norms and also without leaving any open space reservation or front set back and side set back, occupying the entire plot. The petitioner's husband gave a representation dated 03.03.2021 to the first respondent to take action against the second respondent. The first respondent, vide letter dated 12.08.2021



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has informed that, notice under Section 216 of the Tamil Nadu Municipalities Act 1920 was given and it is under progress. In the meantime, to escape from the legal action, the second respondent has filed a suit in O.S.No.39/2021 for injunction, however, the petition in I.A.No.204/2021 seeking interim injunction was dismissed, vide order dated 13.04.2023. Since the first respondent has not taken any action, the petitioner's husband has submitted another representation dated 26.04.2023. However, there is no response till date and hence, this writ petition has been filed.

3. The learned Standing Counsel takes notice for the first respondent and submitted that the representation given by the petitioner's husband will be considered by the authorities concerned and appropriate action will be taken by them in accordance with law, within a time frame, as fixed by this Court.

4. Considering the facts and circumstances of the case and also considering the submission made by the learned Standing Counsel appearing for the first respondent, we inclined to pass the following order.



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i) The first respondent is directed to consider the representation of the petitioner dated 26.04.2023, on its own merits and in accordance with law.

ii) The first respondent is directed to serve notice to the petitioner as well as the second respondent and also to the interested parties, if any, and after affording opportunity of hearing to them, pass final order.

iii) The above exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

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

(D.K.K.J.)

(P.D.B.J.)

09.06.2023

Internet: Yes/No

Index : Yes/No

mst

To

The Commissioner, Tambaram Municipal Corporation,
Tambaram, Chennai 600 045.



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and

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