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W.P.No.25514 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.10.2023

Delivered on : 06.11.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.25514 of 2023
and WMP.No.24903 of 2023**

Berachah Apostolic Christian Assembly trust

Rep. by its Managing Trustee

Ps.M.Maria singarayar

No.41, Anna Street (Kumaran Street)

K.K.Thazai, MMC Post

Madhavaram, Chennai-600 051

..Petitioner

Vs.

1.The Commissioner

Greater Chennai Corporation, Ripon Buildings,

Chennai-600 003.

2.The Zonal Officer

Zone III, Greater Chennai Corporation

No.1, Thattankulam Street

Bazar Road, Madhavaram, Chennai-600 060



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3.The Assistant Engineer

Division 28

Greater Chennai Corporation

No.1, Thattankulam Street

Bazar Road, Madhavaram, Chennai-600 060

4.V.Srinivasan

S/o.Viswanathan

5.The District Collector,

4th floor, M.Singaravelar Maaligai

No.62, Rajaji Salai, Chennai-600 001

..Respondents

[R4 suo motu impleaded vide order dated 29.08.2023

made in WP.25514 /2023]

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of mandamus forbearing the respondents from initiating any coercive action against the petitioner's trust Church building which is situated in Old survey No.53/1A (Part) and 53/2A, New S.No.37, 38/3, No.41, Anna Street, (Kumaran Street), Kudirai Kuthai Thazai, Madhavaram, Chennai-600 051 to an extent of 2817 sq.ft further directing the respondents to give planning approval by considering the petitioner's application dated 24.08.2023 vide plan submission number-OBPA/01/04551/2023 within stipulated time fixed by this court.



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For Petitioner :: Ms.Dakshayani, Senior counsel
for Mr.G.Mohammed Aseef

For respondents :: Mr.D.B.R.Prabu, Standing counsel for R1 to R3
Mrs.S.Mythreye Chandu, Spl.G.P. for R4
Mr.G.Karthikeyan, Senior counsel
for Mrs.A.Jagadeeswari for R5

ORDER

Per J. NISHA BANU, J.

This writ petition is filed praying for a direction to forbear the respondents 1 to 3 from initiating any coercive action against the petitioner's Church building and for a further direction to the respondents 1 to 3 to consider the petitioner's application dated 24.08.2023 vide plan submission number-OBPA/01/04551/2023 within stipulated time fixed by this court.

2. It is averred in the writ petition that the petitioner is the Managing Trustee of Berachah Apostolic Christian Assembly Trust (herein after called as "Church"). The church was constructed in the year 2002 and according to the petitioner, the application filed on 07.02.2018 seeking benefit of exemption under Section 113 and 113-A of the Act is pending before the Chennai Metropolitan Development Authority.



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3. It is stated in the writ petition that respondents 1 to 3 issued Lock and seal notice dated 22.01.2018 under Section 56 read with Section 85 of the Town and Country Planning Act, 1971 (hereinafter called as "Act") . As against the said notice, the petitioner Trust filed statutory appeal under Section 80-A of the Act. On 22.02.2018, Respondents 1 to 3 issued De-occupation notice under Section 56(2) of the Act.

4. In the Statutory Revision, personal hearing was conducted on 28.03.2019, 13.06.2019 and 18.07.2019 and by proceedings dated 26.04.2022, the Additional Secretary (Technical) Housing and Urban Development Department, Secretariat, Chennai-9, disposed of the revision with a direction to the petitioner Trust to obtain necessary planning permission as per the Building Rules, within three months, failing which, directed the Greater Chennai Corporation to pursue necessary enforcement action.

5. Petitioner-Church filed review under Section 81 of the Act and also filed W.P.No.21258 of 2022 seeking direction to the respondents 1 to 3 not to take any coercive action. The said writ petition was dismissed by this court on 12.08.2022, holding that the petitioner was granted 6 months time for making



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application for regularization and again further extension for 3 months was granted but the petitioner filed regularization application only after the issuance of the Lock and Seal Notice.

6. Thereafter, on 22.08.2022, the petitioner's building was locked and sealed. Petitioner filed extension petition on 23.08.2022 before the Additional Secretary (Technical) seeking extension of three months. The Additional Secretary by proceedings dated 03.10.2022 granted three months extension and directed the GCC to de-seal the building for rectification work and to obtain planning permission as per rules in force and directed the petitioner not to use the building for the religious purpose.

7. It is further stated by the petitioner that the petitioner Church applied for demolition of the building and demolition permission was granted by respondents 1 to 3. After rectification work, petitioner is said to have applied for planning permission and the same is pending in OBPA/01/1726/2023. For grant of approval, the said application was forwarded to the Commissioner of Police, Avadi and District Collector, Chennai for giving No Objection certificate for the petitioner Church.

8. In the mean time, V.Srinivasan, impleaded 5th respondent filed



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W.P.No.18236 of 2023 seeking direction to the respondent-Greater Chennai

Corporation to demolish the illegal and unauthorised petitioner church. The said writ petition was disposed of by this court by order dated 22.06.2023. This court, taking into consideration the contention of the writ petitioner viz., V.Srinivasan, that no steps have been taken by the 5th respondent-church with regard to planning permission, held that owing to the demolition/rectification yet to be completed to make the building in accordance with the permission, granted by the authorities, based on the undertaking given by the 5th respondent-Church that no activity will be carried out in the building till the building is constructed in accordance with the plan to be sanctioned, directed the authorities to pass orders on the pending application of the 5th respondent-Church within a period of 3 months.

9. Now, the petitioner has approached this court stating that the Commissioner of Police, Avadi, by letter dated 26.07.2023 and the District Collector, Chennai by proceedings dated 30.09.2023, issued no objection certificate for the construction of petitioner church. Thereafter on 10.10.2023, the petitioner Church has once again applied for building plan approval by paying necessary fees and the same is pending.

10. The learned counsel for the 5th respondent would submit that the



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petitioner's planning permission was rejected thrice by the Greater Chennai Corporation on 14.01.2023, 30.03.2023 and 24.08.2023. He would further submit that any building is to be constructed in accordance with the plan to be sanctioned.

11. Mr.D.B.R.Prabu, learned Standing counsel for the respondents 1 to 3 would submit that based on the relevant records and proceedings issued by the Commissioner of Police and the District Collector, planning permission application of the petitioner church will be scrutinised and permission will be granted, if the same is in compliance of the rules.

12. It is a matter of record that at the time of admission, on 29.08.2023, this court ordered notice to the respondents 1 to 3 and suo motu impleaded District Collector, Chennai as 4th respondent and ordered status quo to be maintained. The 5th respondent filed impleading petition and this court ordered the said petition and impleaded 5th respondent as party respondent on 03.10.2023.

13. A perusal of entire records placed before this court would go to



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show that the petitioner church as per the undertaking given before this court before the other Division Bench, carried out no activity in the building and awaited for the planning permission sanction.

14. Further, the 4th respondent - District Collector, Chennai, by his proceedings 30.09.2023, pointed out that after considering the petitions submitted by V.Srinivasan and others dated 06.07.2023 and 04.09.2023 and also taking note of the No Objection Certificate issued by the Commissioner of Police, Greater Chennai, Avadi, dated 26.07.2023, the activities conducted by the petitioner Church will not cause any disturbance to the public.

15. Based on the investigation report of the North Chennai Revenue Divisional Officer, Madhavaram Tahsildar, Revenue Inspector and Village Administrative Officer, the District Collector, by his proceedings dated 30.09.2023, further pointed out that the petitioner church is following the relevant rules and as per the guidelines issued by the Greater Chennai Corporation, rectification work has been carried out and the same is as per the building rules. Based on the report given by the Commissioner of Police, that the building of the church would not cause any law and order problem and traffic nuisance, the District Collector addressed the proceedings dated



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30.09.2023 to the Superintending Engineer (Electricity and Planning), Urban Planning Department, Greater Chennai Corporation, that No objection Certificate is issued for the construction of the petitioner church in the subject land.

16. A perusal of the various documents filed by the petitioner would make it clear that the petitioner church has applied for demolition plan and the demolition permission was given by the Greater Chennai Corporation and thereafter rectification work has been carried out by the petitioner. Thereafter, 5th respondent filed W.P.No.18236 of 2023 seeking direction to demolish the petitioner's building. It is to be noted that this court recorded the undertaking of the petitioner that religious activity is not carried out until the planning permission is granted. Thereafter, the petitioner applied for building plan approval and as per the norms, paid the necessary fees and thereafter, as per the requirement of planning approval, the Commissioner of Police, Avadi and the District Collector, Chennai, issued No Objection Certificate for the construction of the church by the petitioner. Hence, the respondents 1 to 3 are directed to scrutinise the planning permission application submitted by the petitioner and all the relevant records and proceedings issued by the various authorities and after following the guidelines and rules mentioned in the Act,



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necessary planning permission can be sanctioned to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Till then, the respondents 1 to 3 shall not take any coercive steps against the petitioner.

17. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (N.M., J.)
06.11.2023

nvsri

To

1.The Commissioner

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2.The Zonal Officer

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and
N.MALA,J.

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