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W.P.No.1866 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.1866 of 2024

R.Thendral .. Petitioner

v.

1. Additional Secretary (Technical)
Housing and Urban Development Department
Secretariat, Chennai 600 009
2. The Assistant Engineer
The Greater Chennai Corporation
Division 074, Perambur High Road
Chennai 600 012
3. The Assistant Executive Engineer
The Greater Chennai Corporation
Unit – 16, Strans Road
Chennai 600 012
4. The Executive Engineer
The Greater Chennai Corporation
Zone – 06, Strans Road
Chennai 600 012

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent 2 to 4 to de-seal the petitioner's property at Door No.1, Egangipuram 1st Main Street, Ayanavaram, Chennai 600 012 to enable the petitioner to rectify the deviations and obtain planning permission as per the order passed by 1st respondent u/s 80A of the Tamil Nadu Town and Country Planning Act, 1971 dated 27.10.2023.

For Petitioner :: Mr.K.Sivasubramanian

For Respondents :: Mr.R.Vigneshwaran
Government Advocate for R1
Mr.E.C.Ramesh
Standing Counsel for R2 to R4

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The petitioner challenges the impugned order passed by the first respondent disposing the revision petition filed by the petitioner under Section 80A of the Tamil Nadu Town and Country Planning Act, in the following lines:-

“15. The land under the ownership of Thiru.R.Thendral & Tmt.R.Priyadarshini as per the PLR extract in S.No.317/306 & 317/162 is classified as EWS area in the land use map of Second Master Plan for Chennai Metropolitan Area. In EWS area, only the front setback along the road side is to be



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provided and there is no requirement of side and rear setbacks for the building. In the case of the building of revision petitioner a front setback of 1.0m is to be provided. The existing old building and the additional construction in the front portion put up recently prima facie appears to violate only the front setback requirement of Tamil Nadu Combined Development and Building Rules, 2019. The petitioner in his representation dated 25.10.2023 has informed his willingness to remove the violations and obtain planning permission for the building and has requested to grant him time to complete the process. The petitioner is eligible to get such relief from the Government under Section 80-A(1) read with Section 56(3) of Town & Country Planning Act, 1971. However, since Greater Chennai Corporation has locked and sealed the building based on the orders of Hon'ble High Court, the petitioner is directed to approach the Hon'ble High Court for suitable relief.

16. The objector's building is in no better position than the petitioner as the building is in deviation to the approved plan in respect of ground floor and unauthorized construction in respect of first floor. Since the land of the objector is a corner plot a front setback of 0.1m is to be left on the north and eastern sides, which has not been provided.



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In many such similar cases the Hon'ble High Court has directed the authorities to take action on the buildings of the objectors also, if there is any violation or deviation to the approved plan. Hence, Greater Chennai Corporation is directed to pursue further action against the building of the objector Thiru.G.Ramakrishnan under the provisions of Tamil Nadu Town and Country and Planning Act, 1971.”

2. From the impugned order, it is seen that the petitioner is found to have put up construction by not providing the front setback along the road side. It was therefore the first respondent, taking note of the fact that the building is old, has accepted the petitioner's revision, since the petitioner is willing to remove the violations and obtain planning permission for the building. Though the petitioner has requested time to complete the process, the petitioner was directed to approach this Court, as the Corporation had locked and sealed the building based on the direction of this Court.

3. This Court is convinced that the order of the first respondent is not inappropriate. Pursuant to the order of the first respondent impugned in the



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writ petition, it is now represented before this Court that the petitioner has not submitted any application for planning approval. However, considering the grievance of the petitioner that he was unable to do the demolition or alterations to bring the property in conformity with the planning permission that is to be applied for, this Court is inclined to direct the respondents to de-seal the premises only for the purpose of carrying out the alterations in compliance with the earlier direction or orders of the respondents.

4. The petitioner also seeks permission to go for fresh application for planning approval. Recording the fact that the respondents have already de-sealed the premises for the purpose of carrying out the alterations, the writ petition is disposed of with the following directions:-

(i) The respondents 2 to 4 are directed to de-seal the premises of petitioner only for the purpose of carrying out alterations/demolition of building to satisfy the requirement of front setback within a period of three months. In case the building is not brought in conformity with regulations as indicated in the order of first respondent within three months, the respondents 2 to 4



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shall take appropriate action.

(ii) The petitioner is permitted to approach the respondents with a fresh building plan permission/ application in accordance with law to save the remaining building.

No order as to costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

12.02.2024

ss

To

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