



WEB COPY



W.P.No.10921 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM :

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

W.P.No.10921 of 2005

Sri Gnana Advaita Peetam
Registered Charitable Trust
No.37, Ramakrishna Puram
Third Street, West Mambalam
Chennai 600 033

represented by its Trustee
Swami Gnanananda Sarasvathi

..

Petitioner

v.

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai 600 003
2. Assistant Engineer (AE)/Joint Engineer (JE)
Corporation of Chennai
Zonal Office VII
Division No.108
Rippon Building
Chennai 600 003



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3. Thangam Venkateswaran
W/o late Mr.Venkateswaran
rep. by her Power of Attorney
F.Sesuraj

4. M.Arokiya Mary
(R3 & R4 impleaded as per order
of Court dated 13.04.2006 in
WPMP.No.706/2006) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in its communication dated 19.03.2005 bearing No.3536 and executed on 22.03.2005 and quash the same and consequently forbear the respondents from interfering with the construction activity of the petitioner as per the sanction granted by the Asst. Executive Engineer, Corporation of Chennai, in its letter bearing W.D.C.No.PPA/WDC07/07266/2004 dated 12.01.2005 at its property bearing Old No.15, New No.7, New Giri Road, T.Nagar, Chennai 600 017.

For Petitioner :: Mr.Gautam S.Raman

For Respondents :: Mr.D.B.R.Prabhu
Standing Counsel for R1 & R2
R3 & R4 - No appearance

ORDER

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

This writ petition is filed for issuance of a writ of certiorarified mandamus to quash the impugned order passed by the first respondent dated



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22.03.2005 and to forbear the respondents from interfering with the construction activity of the petitioner as per the sanction granted by the Assistant Executive Engineer of the respondent Corporation in its letter dated 12.01.2005.

2. The brief facts that are necessary for the disposal of the writ petition are as follows:

The petitioner is a public charitable trust and the deed of trust dated 02.08.1976 shows that the petitioner is a public trust. The petitioner has purchased the property in T.Nagar for a valid consideration and as per the communication dated 12.01.2005, the petitioner's application for planning permission was processed and approved. The petitioner also states that the petitioner had paid the required fees as per the said communication dated 12.01.2005. However, ignoring the fact that the petitioner's building plan permission was approved, the first respondent passed the impugned order dated 19.03.2005 in the following lines:-

“The requirements of section 234 to 241 of Act IV of 1919 not having been complied with by you, notice is



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hereby given that should you proceed with the building no.as above street you will be liable on conviction to a fine not exceeding Rs.500 and to a further fine of Rs.100 for such day during which the offence is proved to have been continued after the first day.”

3. Sections 234 to 241 of the Chennai City Municipal Corporation Act are regarding the application for construction and approval of the site as well as approval for planning permission. Since the planning approval had already been granted to the petitioner, there is no question of treating the construction as unauthorized. Even if there is violation or deviation or the construction is not in accordance with the building rules or the approved plan, the respondent Corporation may take appropriate proceedings under the relevant law. However, the impugned order appears to be one without application of mind, particularly ignoring the fact that the petitioner's application for planning permission was processed and approved even at the time when the impugned order was passed. In such circumstances, the impugned order is quashed for total non-application of mind. However, it is open to the official respondents to take appropriate proceedings in the



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manner contemplated under the Tamil Nadu Urban Local Bodies Act, 1998, if the construction put up by the petitioner is found not in conformity with the approved plan or in violation of any building rules. The writ petition stands disposed of. No costs.

Index : yes/no

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

(N.S.,J.)

Neutral citation : yes/no

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SS

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