



WP.No.5775 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

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1. B.Harish Kumar
2. B.Sanjay Kumar
3. B.Deepak Kumar

Petitioners

Vs

1. The Secretary to Government,
Housing and Urban Development Department Chennai-9
2. The Member Secretary,
Chennai Metropolitan Development Authority
Chennai-8

Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 2nd Respondent to remove the lock and seal made on 31.01.2024 in the Petitioners' property at Old Door No.306, New Door No.420, Mint Street, Sowcarpet, Chennai-3, comprised in Resurvey No.9356, Block No.77, VOC Nagar, Chennai, within a time frame.

For Petitioners : Mr.R.Kamaraj

For Respondents : Mr.R.Vigneswaran-GA-R1
Mr.Y.Bhuvaneshkumar, Standing Counsel-R2

ORDER

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

1. This Writ Petition has been filed to issue a Writ of Mandamus to direct the



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2nd Respondent to remove the lock and seal made on 31.01.2024 in the Petitioners' property at Old Door No.306, New Door No.420, Mint Street, Sowcarpet, Chennai-3, comprised in Resurvey No.9356, Block No.77, VOC Nagar, Chennai, within a time frame.

2. This Court heard the learned counsel on either side, considered their submissions and also perused the material records placed before this Court.
3. The case of to the Petitioners is that they are the owners of the premises at Old Door No.306, New Door No.420, Mint Street, Sowcarpet, Chennai-3. The Petitioners obtained plan approval on 10.04.2013 for construction of a commercial building with a dwelling unit. However, the Petitioners appear to have put up a construction in deviation of the approved plan. Therefore, proceedings were initiated for locking and sealing of the premises by proceedings, dated 24.08.2016. The Petitioner filed a statutory revision under Section 80A of the Tamil Nadu Town and Country Planning Act before the 1st Respondent. The 1st Respondent granted six months time to rectify the deviations/defects and directed the 1st Respondent to desal the premises only for the purpose of carrying out alterations, which are required. In other words, the order passed by the 1st Respondent, dated 05.04.2017, directing the 2nd Respondent to desal the premises is only to enable the Petitioner to rectify the deviations/defects.
4. When a Writ Petition was filed by the Petitioners earlier, for issuance of a Writ of Mandamus, directing the 2nd Respondent to remove the lock and seal for a period of six months to enable the Petitioners to rectify the defects



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and restore the premises in conformity with the approved plan, the same was disposed of by this Court by order dated 15.11.2022, with a direction to the 2nd Respondent to desal the premises within a period of one week and to bring down the building in conformity with the approved plan issued by the Chennai Corporation within a period of six months. Despite no further time is granted, as per the order dated 15.11.2022, the Petitioner has not done any alteration, which is required as per the direction of this Court and the order passed by the Respondents. Therefore, the premises of the Petitioner was again locked by proceedings dated 31.01.2024. The Petitioners have now come forward before this Court by way of another Writ Petition with an identical prayer.

5. A counter is filed by the Respondents, pointing out that the Petitioners have not removed the unauthorised construction despite the premises was desealed earlier by order dated 07.03.2024, recording the submissions of the learned counsel for the Petitioner that the Petitioner had already done certain alterations to bring down the building in accordance with the approved plan.
6. Even earlier when the Petitioners sought for a direction to permit them to remove the articles kept inside the premises, which was locked and sealed, this Court permitted the Petitioners to approach the Official Respondents. When the matter was taken up for consideration earlier on 18.07.2024, the learned counsel for the Respondents submitted that the Petitioners have not rectified the violations nor demolished the unauthorised construction in the parking area or in the stilt floor and the other deviations as pointed out by the



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2nd Respondent. However, the learned counsel for the Petitioners stated that the unauthorised construction has been demolished. This Court, therefore, issued a direction to the 2nd Respondent to make a spot inspection of the premises and file a report if there is any unauthorised construction .

7. The Petitioners in this case played a hide and seek game and filed Writ Petitions one after another to desal the premises for the purpose of rectifying the deviations/defects in conformity with the approved plan. This exercise has been repeated as seen from the sequence of events. As against the specific plea taken by the Respondents that the Petitioner has not demolished the unauthorised construction in the parking area or in the stilt floor and did not rectify the deviations pointed out by the 2nd Respondent, the learned counsel for the Petitioner asserted that the Petitioners have demolished the unauthorised construction. However, the learned counsel for the 2nd Respondent has produced photographs taken after making a spot inspection, showing the existence of unauthorised construction in the stilt floor. An inspection report dated 23.07.2024 is filed by the Assistant Planner.
8. The Petitioners have filed Writ Petitions one after another only to get time without regard to the orders passed by this Court and on every occasion, making the Court to believe that the representation of the Petitioners is bona fide. This Court cannot grant further time to rectify or to remove the unauthorised construction in the parking area or in the stilt floor since the



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object behind this litigation is only to seek time without any intention to comply with the directions. Hence, this Writ Petition is nothing but an abuse of process and accordingly, it is liable to be dismissed with costs.

9. In fine, this Writ Petition is dismissed, with a cost of Rs.10,000/- payable to the 2nd Respondent.

(S.S.S.R.J.) & (N.S.J.)
23.07.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
Srcm

To

1. The Secretary to Government, Housing and Urban Development Department Chennai-9
2. The Member Secretary, Chennai Metropolitan Development Authority, Chennai-8



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and
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