



WEB COPY



W.P.No.5524 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.5524 of 2020

and

W.M.P.No.6458 of 2020

and

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V.Ganesh

... Petitioner

Vs.

1. The Principal Secretary to Government
Housing and Urban Development Department
Fort St.George
Secretariat, Chennai-600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai-600 008.
3. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003.
4. A.V.Sreenivasan
S/o.A.L.Varadarajan

... Respondents

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Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 31.05.2019 made in G.O.(D)No.53, Housing and Urban Development, Chennai-9 on the file of the Principal Secretary to Government, Housing and Urban Development Department, the first respondent herein confirming the order dated 23.12.2014 made in Lr.B2/14942/2014 on the file of the Member Secretary, CMDA, Chennai-8, the second respondent herein and quash the same and consequently, direct the respondents 1 and 2 to approve the building planning permission in Application No.SBC 795/2014 dated 01.10.2014 submitted by the petitioner.

For Petitioner	:	Mr.A.V.Arun
For Respondents	:	Mr.P.Kumaresan Additional Advocate General assisted by Ms.S.Anitha Special Government Pleader for R1 Mr.V.Sudalai Selvan, for R2 Mr.G.T.Subramanian, Standing counsel for R3 Mr.S.Rajasekar, for R4

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed assailing an 'order dated 31.05.2019 in G.O.(D).No.53



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Housing and Urban Development (UD-VI(1)) Department made by R1'

{hereinafter 'impugned order' for the sake of brevity, convenience and clarity}.

2. Impugned order has been made in an appeal under Section 79 of 'the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972)' {hereinafter 'said Act' for the sake of brevity}.

3. Mr.A.V.Arun, learned counsel on record for writ petitioner, Mr.P.Kumaresan, learned Additional Advocate General assisted by Ms.S.Anitha, learned Special Government Pleader for R1, Mr.V.Sudalai Selvan, learned counsel for R2, Mr.G.T.Subramanian, learned Standing Counsel for R3 and Mr.S.Rajasekar, learned counsel for R4 are before us.

4. The short point is that in an apartment complex a area earmarked for car parking has been subsumed by a construction in a stilt / ground floor. The fourth respondent (private respondent) is the objector who says that he is unable to park his car.



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5. After being unsuccessful before the Original Authority, writ petitioner has filed an appeal petition under Section 79 of said Act and R1 made the impugned order.

6. Notwithstanding very many averments / grounds in the support affidavit, Mr.A.V.Arun, learned counsel on record for writ petitioner predicated his argument on one short point and that short point is writ petitioner as appellant before R1 has sent a representation dated 07.12.2018 but the impugned order says that no representation has been received from the appellant.

7. The question that arises for consideration is, whether any representation from appellant before R1 was received at all.

8. Mr.P.Kumaresan, learned Additional Advocate General appearing on behalf of R1 submitted from records and files that no representation has been received. Learned Additional Advocate General also points out that even after 07.12.2018, R1 has sent a letter dated 19.12.2018 bearing Letter



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No.3643/UDVI-(1)/2015-8, calling upon the writ petitioner / appellant to submit a written submission within one week. Learned Additional Advocate General submits that this 19.12.2018 letter would not have been sent if 07.12.2018 representation has been received. In any event, it is not available in the files and it has not been received by R1 is learned Additional Advocate General's emphatic say.

9. A careful perusal of case file brings to light that writ petitioner has not filed any acknowledgment to demonstrate that 07.12.2018 representation has been sent to R1. Therefore, we are constrained to hold that writ petitioner is not able to demonstrate that he has sent written representation. Be that as it may, though the impugned order says that no representation has been received from the appellant, the contentions of appellant have been considered by R1 while making the impugned order.

10. In the light of the narrative, discussion and dispositive reasoning thus far, we are convinced that no ground has been made out for interference qua impugned order.



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11. However, learned counsel for writ petitioner submits that 'the Tamil Nadu Combined Development and Building Rules, 2019' {hereinafter 'new Rules' for the sake of brevity} has come into force and that he has submitted a revision application to R2. We express no opinion on this submission and leave the question open as we are not interfering with the impugned order.

12. Ergo, the sequitur is, captioned WP fails and the same is dismissed. Consequently, captioned 'Writ Miscellaneous Petition' {'WMP'} thereat also perishes with captioned WP which means captioned WMP is also dismissed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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M.SUNDAR, J.,
and
K.RAJASEKAR, J.,

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