



WEB COPY



W.P.No.11563 of 2024

d IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 05.08.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11563 of 2024

Madras Society for the Protection and Care of Animals
(formerly known as Society for the Prevention of
Cruelty to Animals Madras),
Rep. By its Honorary Secretary and
his Power of Attorney
Mr.C.P.Achuthan,
No.67/34, Vepery High Road,
Chennai – 7.

.. Petitioner

Vs

1.The Managing Director,
Chennai Metropolitan Water Supply and Sewer Board,
Chintadripet,
Chennai – 2.

2.The Assistant Engineer (Depot),
Chennai Metro Water and Sewer Board,
Zone-V, Division – 58,
Whannels Road, Egmore Railway Station,
Chennai – 8.

3.The Area Engineer,
CMWSSB,
Chennai – 2.

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of mandamus directing the third respondent to dispose the application for water and sewer connection date 18.03.2016 for the building bearing Old No.34, New No.67, Vepery High Road, Chennai-7, within a time frame.

For Petitioner : Mr.N.Sampath

For Respondents : Mrs.K.Vasanthamala

Standing Counsel

ORDER

The writ petition has been filed for a direction directing the third respondent to dispose the application submitted by the petitioner seeking for water and sewer connection for the building bearing Old No.34, New No.67, Vepery High Road, Chennai-7.

2. The property bearing Old No.34, New No.67, Vepery High Road, Chennai-7, originally belongs to the petitioner society. The society has leased out the premises to the lessee Mr.Achuthan, who was also given Power of Attorney by the society to obtain planning permission from the planning authority and also to get water and sewer connection to the building put up in the above said premises. Accordingly, in the said capacity, he had obtained planning permission as a Power of Attorney



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holder for construction of ground and first floor from the Corporation of Chennai. Thereafter, on 18.03.2016, he applied for water and sewer connection for the said premises by paying requisite fees. Despite payment, even now, the petitioner was not provided with water and sewer connection.

3. On perusal of the counter affidavit filed by the respondents, it is revealed that the petitioner's premises was classified under the category of commercial. The property tax has been assessed to the said building for ground floor + head room + lift room (non-residential). Based on the property tax assessment, the petitioner had applied for water and sewer connection only for ground + 2 floors and paid required fees.

4. However, on instructions, Mrs.K.Vasanthamala, learned standing counsel for the respondents, submitted that the petitioner had constructed the said premises with deviation of building permission. He constructed the third and fourth floor without any planning permission from the authorities concerned. The petitioner has constructed ground + 4 floors totally, for which, the petitioner was granted planning permission only for ground + 2 floors. Therefore, Chennai Corporation had issued



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lock & seal and demolition notice for the portion constructed in contravention of the planning permission dated 08.12.2014. It is also confirmed by the communication dated 23.05.2018 of the Member Secretary, Chennai Metropolitan Development Authority (CMDA) that no planning permission was issued for construction of third and fourth floor.

5. Subsequently, the petitioner submitted application for regularization of unauthorized construction. The said request was rejected by the CMDA on 26.07.2023 on the ground that the owners of the Hotel M/s.The Green City, Business Class Hotel, had entered into a rental agreement with SPCA only on 01.04.2016 to run a hotel in the above said address. Further, approval has been obtained from Greater Chennai Corporation for Ground + 1 floor commercial building only on 27.03.2008. Therefore, the building under reference was constructed only after the cut-off date of 01.07.2017 and hence, the regularization application submitted under Section 113C for the building under reference is rejected. That apart, on inspection by the respondents, it is found that the petitioner had constructed ground + 4 floors and in the ground floor to 2nd floor, there are 38 rooms and the 3rd floor is meant for Marriage Hall and the 4th floor is having lift room and head room.



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However, the petitioner had suppressed all these facts and therefore, on inspection, the respondents found deviation and illegal construction and issued lock & seal and demolition notice.

6. In view of the above, the request made by the petitioner seeking water and sewer connection cannot be considered and the writ petition filed by the petitioner is devoid of any merit and accordingly, the writ petition is dismissed. No Costs.

7. The learned counsel for the petitioner submitted that as against the rejection order passed by the CMDA, the petitioner has filed an appeal before the Government and the same is pending. If the petitioner succeeds in the appeal, the petitioner can very well apply for water and sewer connection for the building in question afresh.

05.08.2024

Index: yes/no
Neutral citation: yes/no
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G.K.ILANTHIRAIYAN, J.

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