



WP.No.11698 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.11698 of 2024
WMP.No.12793 of 2024

Karthikeyan

Petitioner

Vs

1. The Government of Tamil Nadu by its Secretary
Housing and Urban Development Department
Chennai-9
2. The Member Secretary, Chennai Metropolitan Development Authority
Chennai-8
3. The Commissioner, Greater Chennai Corporation
Chennai-3
4. The Commissioner, Avadi Municipality
Chennai-54

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 1st Respondent to dispose of the appeal dated 06.03.2024 preferred by the Petitioner.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.G.Nanmaran, SGP-R1
Mr.R.Sivakumar- Standing Counsel-R2



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Mr.D.B.R.Prabhu, Standing Counsel-R3
Mr.R.Gopinath, Standing Counsel-R4

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 1st Respondent to dispose of the appeal, dated 06.03.2024 preferred by the Petitioner.
2. In respect of the petition mentioned premises, the Petitioner was issued with a stop work notice, dated 14.02.2019, followed by the locking, sealing and demolition notice dated 29.05.2019 for unauthorised construction. On the Revision preferred by the Petitioner under Section 80A of the Tamil Nadu Town and Country Planning Act, the Government has passed an order dated, 08.01.2020, calling for the Petitioner to rectify the defects and to obtain necessary planning permission. While so, again demolition notices dated 21.09.2020 and 23.02.2021 were issued and hence, the Petitioner preferred a Revision on 06.03.2024 before the 1st Respondent as against the said demolition notice. Since, the said Revision is not considered so far, this Writ Petition has been filed, seeking the prayer as stated above.
3. This court heard the learned counsel on either side and considered their submissions.
4. It is now brought to the notice of this Court that the Petitioner has not challenged the earlier order, dated 08.01.2020, passed by the Government in



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the statutory Revision filed under Section 80A of the Tamil Nadu Town and Country Planning Act. In the said order dated 08.01.2020, the Government had disposed of the said statutory appeal in the following lines:-

“6. During the hearing, the Appellant informed that approval has not been obtained for construction of building in the site. Avadi Municipality issued notice while the building is under construction. Building with Ground Floor +2 Floor for 6DU's constructed without any set back spaces. Further the Planning Permission application has also been rejected by the Avadi Municipality. Therefore, the Appellant in letter dated 10.12.2019 requested time to consult with the structural Engineer for taking necessary action to restore the building as per norms. Subsequently the Appellant in letter dated 27.12.2019 has requested to provide sufficient time to comply with correction in the site and to permit to apply for necessary Planning Permission.

7. The Officials from Avadi Municipality informed that PPA submitted by the Appellant for the above premises was already rejected as it is an unauthorised and deviated construction of Ground Floor + 2 Floor without any set back space and furnished a sketch showing the site condition and a report on the above was already submitted vide Letter No.Na.Ka.No.4229/2019/F2, dated 11.11.2019.

8. Since the Appellant has conveyed his willingness to rectify the defects and to obtain necessary Planning Permission as per the Tamil Nadu Combined Development Building Rules, 2019 (TNCDBR) 3 months time is given to rectify the defects and to obtain necessary Planning Permission and the building can be de-sealed for three months with the following conditions:-

- i. Appellant must obtain demolition approved plan from Local Body for showing the rectification proposed to make the construction comply with earlier approved plan or current rules in force.
- ii. The Local Body to approve the demolition plan within 10 days from the date of application.
- iii. The Local Body/ Chennai Metropolitan Development Authority must de-seal the building after approval of demolition plan for a period of three months.



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- iv. The Appellant must carry out the rectification, as per approved demolition plan and to submit Planning Permission application as per site condition.
 - v. The building shall not be used for any purpose other than rectification.
 - vi. After demolition, approval must be obtained as per present rules in force.
 - vii. The enforcement notice is stayed for a period of three months given for rectifications and to obtain necessary Planning Permission. If rectification is done and once the revised Planning Permission is obtained, the notice will become infructuous.
 - viii. Any violation in the conditions will result in re-sealing, without any further notice.”
5. Since the Petitioner himself admitted that the earlier proceedings dated 08.01.2020 is not challenged, this court is unable to countenance the arguments of the learned counsel for the Petitioner. It is under these circumstances the learned counsel for the Petitioner now seeks permission to withdraw the Writ Petition, with a liberty to the Petitioner to challenge the said order dated 08.01.2020 before appropriate authority and also made an endorsement in the Writ Petition to that effect.
6. In view of the endorsement made by the learned counsel for the Petitioner, recording the same, this Writ Petition is dismissed, with a liberty preserved to the Petitioner to challenge the earlier order, dated 08.01.2020 passed by the Government in the statutory appeal filed under Section 80A of the Tamil Nadu Town and Country Planning Act. No costs. Consequently, the connected MP



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is closed.

(S.S.S.R.J.) & (N.S.J.)
04.06.2024

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

To

1. The Government of Tamil Nadu by its Secretary, Housing and Urban Development Department, Chennai-9
2. The Member Secretary, Chennai Metropolitan Development Authority Chennai-8
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and
N.SENTHILKUMAR, J.

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