



WP No.25946 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

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THE HON'BLE MR.JUSTICE S.S.SUNDAR

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

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J.Jayapaul Mohan

: Petitioner

versus

1.The State of Tamil Nadu,
rep. By its Secretary to Government,
Housing & Urban Development Department,
St.Fort George, Chennai 9

2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai 3

3.The Executive Engineer,
Greater Chennai Corporation,
Zone v, 61, Basin Bridge Road,
Chennai 600021

4.A.K.Rafi Baig

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing respondents 2 and 3 to consider the petitioner's representation dated 30.06.2023 and to take such appropriate action as against the illegal and unauthorized construction made by the 4th respondent by encroaching on the public street at Door No.7, Perumal Street, Egmore, Chennai 600 008.

For the Petitioner

: Mr.R.Saravanan



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For the Respondents : Mr.M.R.Gokula Krishnan,
Additional Government Pleader
for the first respondent

Mr.D.B.R.Prabhu,
Standing Counsel,
for respondents 2 and 3

Mr.L.Gavaskar,
for the fourth respondent

ORDER

(Made by S.S.SUNDAR, J.)

This writ petition is filed seeking a Writ of Mandamus directing respondents 2 and 3 to consider the petitioner's representation dated 30.06.2023 and to take appropriate action against the illegal and unauthorized construction made by the fourth respondent, by encroaching on the public street at Door No.7, Perumal Street, Egmore, Chennai 600 008.

2. The petitioner states that his son and wife are the absolute owners of the property in D.No.67, Perumal Street, Egmore, Chennai.

3. The case of the petitioner is that the fourth respondent has put-up an unauthorised construction, encroaching into the public road



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to an extent of 200 sq.ft.; and that the fourth respondent, who resides opposite the house of the petitioner, has not obtained necessary building planning permission for the same. Though an allegation is made that the fourth respondent has encroached into the public road, no material is placed before this Court to prove the said allegation.

4. The status report filed by the third respondent indicates that both the fourth respondent as well as the petitioner have projected the balconies of their respective buildings from the first floor in the road margin; meaning thereby, both of them have constructed their house with deviations.

5. The case of the petitioner is that encroachment made by the fourth respondent is on the public road and that the construction is unauthorised.

6. It is now admitted before this Court that the fourth respondent has not put-up construction as per the approved plan. Since the construction was not in adherence to the approved plan,



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the official respondents have initiated proceedings, and Locking & Sealing and Demolition Notice, dated 27.03.2023, was issued. As against the said notice, the fourth respondent has filed a statutory revision under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971. The said revision was disposed of by the first respondent in the following lines :

"5. It is observed that the petitioner obtained approval and put up the building with deviations. Greater Chennai Corporation issued approval considering the site under reference as Continuous Building Area with 1.5 m Front setback as per Tamil Nadu Combined Development and Building Rules, 2019. The petitioner's site also falls under the category of Economically Weaker Section (EWS) area. The required Front setback for Economically Weaker Section (EWS) area is 1.0 m as per Tamil Nadu Combined Development and Building Rules, 2019 which is available at site as has been indicated in Locking & Sealing and Demolition notice issued by Greater Chennai Corporation. Hence there is no violation of Front Set Back in the said building. The other deviations indicated in the Locking & Sealing and Demolition notice in terms of height, floor area and Floor Space Index are appear to be minor for which the petitioner has to



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get revised approval subject to certain rectifications in the building. The petitioner is willing to rectify the deviations and to obtain revised approval.

6. After careful examination of the facts and submissions made, the Government hereby grant three months time to the revision petitioner to rectify the deviations and to obtain revised approval for the rectified building as per Tamil Nadu Combined Development and Building Rules, 2019 within the said period of 3 months time. Greater Chennai Corporation is directed to de-seal the building for the said period of three months. Greater Chennai Corporation shall monitor and proceed with further action, if the petitioner failed to comply the above directions within the time specified."

7. The contention of the petitioner that the construction made by the fourth respondent without a planning permission, is devoid of any merits. The revisional authority has observed that the fourth respondent has obtained approval and put up the building; however, with certain deviations. The Corporation has issued approval considering the site as Continuous Building Area. The fourth respondent's site falls under the category of Economically Weaker



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Section area. The required Front setback for Economically Weaker Section area is 1.0 m and hence there is no violation of Front Set Back in the said building. The other deviations indicated in the Locking & Sealing and Demolition notice were minor in nature and therefore, the fourth respondent was permitted to get revised approval subject to certain rectifications in the building.

8. We are, therefore, of the opinion that we need not interfere with the independent order passed by the revisional authority. Considering the fact that the petitioner has come forward with a false case, this Court is not inclined to entertain the writ petition.

9. Learned counsel for the fourth respondent tried to impress upon this Court by pointing out that the petitioner has been convicted for demanding bribe and the conduct of the petitioner has to be considered.

10. The fact that the petitioner was convicted in a criminal case is totally unnecessary and irrelevant while considering the merits of this writ petition.



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11. The writ petition filed by the petitioner is devoid of merits on the admitted facts. Since the fourth respondent has put-up construction with minor violations and time has been granted by the revisional authority to the fourth respondent to rectify the same, this Court feels that it is not necessary to issue further directions.

12. The writ petition stands closed. There shall be no order as to costs. Consequently, WMP No.25370 of 2023 is closed.

(S.S.S.R., J.) (N.S., J.)
18.06.2024

Index : Yes/No
Neutral Citation : Yes/No
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AND

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