

(2011) 03 MAD CK 0353

In the Madras High Court

Case No : Writ Petition No. 5527 of 2011

Mr. K. Lakshmanan and Others

APPELLANT

Vs

The Chennai Metropolitan Development Authority, The
Corporation of Chennai and The Tamil Nadu Housing Board

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0353

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : R. Mohan, for the Appellant; C. Kathiravan, for R1, V. Bharathidasan, for R2 and A. Vijayakumar, for R3, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsels appearing for the Petitioners, as well as the learned Counsel for the Respondents.

2. At this stage of the hearing of the writ petition, it has been pointed out by the learned Counsel for the Petitioners, that in similar matters, this Court had passed orders, directing the first and the second Respondents to receive the application from the Petitioners, for the grant of approval, for demolition and for putting up a new construction, and to process it, on merits and in accordance with law, without insisting on the production of the "No Objection Certificate" from the third Respondent. One such order, dated 11.08.2009, made in W.P. No. 15490 of 2009, had been placed before this Court. Paragraph 5 of the said order reads as follows:

5. The "No Objection certificate" from the Tamil Nadu Housing Board is not necessary for granting approval for planning permission submitted by the Petitioners. Once the Tamil Nadu Housing Board has sold the property to the Petitioners, it lost its right over the property. Hence, insisting "No Objection Certificate" from the Tamil Nadu Housing Board for processing the application of the Petitioners for demolition and putting up a new construction is uncalled for. This view has been taken by this Court by an order, dated 25.04.2008, made in

W.P. No. 10573 of 2008. Paragraph 4 of the order is usefully extracted here under :

4. Under Similar Circumstances, this Court had disposed of the writ petition in W.P. No. 34063 of 2004 dated 30.11.2004 directing the CMDA to receive the application when it is represented and process the same on its own merits and in accordance with law, following the earlier orders of this Court, in W.P. No. 12022 of 2004 dated 30.04.2004. Following the same, the first Respondent is hereby directed to receive the application when it is represented by the Petitioner and process it on merits and in accordance with law without insisting NOC from the third Respondent within a period of six weeks from the date of receipt of the application from the Petitioners. The Writ petition is disposed of accordingly. No costs. Consequently, connected MP is closed.

3. The learned Counsel appearing on behalf of the third Respondent, Tamil Nadu Housing Board, had submitted that a Division Bench of this Court, had passed an order, dated 28.08.2007, in W.A. No. 1052 of 2007, holding that the proposed construction could be put up without a "No Objection Certificate", being issued by the Tamil Nadu Housing Board. However, it had been stated that such construction cannot be used for commercial purposes.

4. Considering, the submissions made by the learned Counsels appearing on behalf of the Petitioners, as well as the Respondents, the first and the second Respondents are directed to receive the application to be submitted by the Petitioners, for the grant of approval, for demolition and for putting up new construction and to process the same, on merits and in accordance with law and pass appropriate orders thereon. The Petitioners are directed to submit the application to the first and the second Respondents, within a period of fifteen days, from the date of receipt of a copy of this order. On receipt of the application from the Petitioners, the first and second Respondents are directed to consider the same and pass appropriate orders, thereon, on merits and in accordance with law, within a period of eight weeks thereafter, without insisting on the "No Objection Certificate" from the Tamil Nadu Housing Board.

5. This Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed.