
(2014) 08 MAD CK 0200

In the Madras High Court

Case No : W.A.(MD) No. 659 of 2014 and M.P.(MD) No. 1 of 2014

Shanthi Nikethan Resident Welfare Association

APPELLANT

Vs

Saswath Foundation

RESPONDENT

Date of Decision : 11-08-2014

Acts Referred:

Citation : (2014) 08 MAD CK 0200

Hon'ble Judges : R. Mahadevan, J;M. Jaichandren, J

Bench : Division Bench

Judgement

R. Mahadevan, J.—This writ appeal has been filed as against the order of the learned single Judge, dated 17.04.2014 passed in W.P.(MD) No.4053 of 2014

2. For the sake of convenience, the parties are referred according to their litigative status in the writ petition.

3. The facts leading to the filing of the writ appeal, are as follows:

3.1. The writ petitioner is doing the business of promoting the residential properties and he had put up the constructions in Shanthi Nikethan residential complex at 80 Feet Road, Anna Nagar, Madurai, after obtaining necessary approval from the competent authority. He applied for electricity connection on behalf of the purchasers of the flats, however, his claim was rejected by the second respondent by order dated 30.11.2013, stating that a writ petition in W.P. (MD).No.16103 of 2013 filed by the second respondent against the writ petitioner was pending and appropriate safety certificate from electrical Inspector should be obtained, since the building is more than 50 feet height. Subsequently, the said writ petition was dismissed by this Court on 19.12.2013. Even thereafter, no action has been taken by the authorities concerned. Hence, the writ petitioner filed the writ petition seeking a Writ of Certiorarified Mandamus, to quash the impugned proceedings in L.No.AEE/D/AAN/IM/I DKT/DNo.281/ 013, dated 30.11.2013, issued by the first respondent and direct the first respondent to provide electricity connection in terms of the petitioner"s application dated

30.11.2013.

3.2. Meanwhile, by order dated 18.03.2014, the Shanthi Nikethan Resident Welfare Association was impleaded as the second respondent and the Electrical Inspector was impleaded as the third respondent in the main writ petition.

3.3. It was the contention of the writ petitioner that he had already obtained permission from Madurai Corporation and the Electrical Inspector by letter, dated 10.02.2014, had directed the writ petitioner to send the building plan approval from the local body. He had forwarded the plan approval granted by Madurai Corporation. Hence, there would not be any impediment for the third respondent to issue necessary safety certificate to enable the petitioner to get electricity service connection for the newly constructed buildings.

3.4. Per contra, the first respondent contended that as per Regulation 43 of the notification of the Central Electricity Authority, the writ petitioner has to obtain an approval of the Electrical Inspector and on the writ petitioner complying with the requirements as provided in the said Regulations, the first respondent would provide electricity service connection to the writ petitioner.

3.5. Whereas Madurai Corporation is not the competent authority to approve the multi-storied building constructed by the writ petitioner and the appropriate authority is only DTCP, according to the second respondent. Further, it is contended that originally the power delegated to the Corporation for granting multi-storied building had been withdrawn on 14.06.2010 itself and the writ petitioner had submitted the plan in respect of additional construction for approval only on 18.06.2010. In these circumstances, the writ petitioner could not seek the electricity service connection for the additional construction put up by him.

3.6. Such contention raised by the second respondent was denied by the writ petitioner stating that even though the power was withdrawn on 14.06.2010, a circular had been issued by the DTCP only on 03.08.2010 to implement the circular of the DTCP, dated 14.06.2010 and even before 03.08.2010, the writ petitioner produced the plan and got the approval and hence, the writ petitioner sought for a direction to the first respondent to grant service connection.

3.7. Upon consideration of the rival submissions and the materials available on record, the learned Judge directed the third respondent to verify all the documents produced by the writ petitioner and make necessary inspection as per law and on his satisfaction, he may issue the safety certificate to enable the petitioner to get electricity service connection within a period of six weeks from the date of receipt of a copy of the order.

3.8. Challenging the same, the second respondent is before this Court with the present writ appeal.

4. The learned Counsel for the appellant contended that the approval granted by Madurai Corporation is not at all valid and the authority which is competent, is

only the Local Planning Authority, to whom, the writ petitioner did not approach for any approval till date. He further submitted that after obtaining the permission from the Chief Electrical Inspector alone, the electricity service connection can be given, but the same had been violated by the writ petitioner. According to him, the writ petitioner had not even produced the permission alleged to be obtained by him, from Madurai Corporation and the learned Judge had not considered the legal aspects involved in the issue and hence, he sought for setting aside the order of the learned Judge of this Court.

5. On the other hand, the learned Counsel for the first respondent submitted that the learned Judge considered the issue in depth and thereafter, alone gave a direction to the Electrical Inspector to verify all the documents and make necessary inspection and on his satisfaction, issue Safety Certificate so as to enable the first respondent to obtain electricity service connection as per law. Moreover, it is the main contention of the first respondent that after compliance of all legal formalities only, the claim of the first respondent was directed to be considered for electricity service connection. Hence, he prayed for the dismissal of the writ appeal.

6. We have given our anxious consideration to the submissions made on either side and perused the materials made available before us, including the order of the learned Judge of this Court.

7. The issue to be considered by us, is whether the planning permission obtained by the first respondent from Madurai Corporation on 30.06.2010, is valid or not, after the delegation of authority by the Director of Town and Country Planning, by his proceedings dated 14.06.2010.

8. According to the first respondent, this Court in *Apesh Construction Limited Vs. The Corporation of Madurai and Madurai Local Planning Authority*, held that all permissions granted by the Corporation of Madurai, till the date of communication of the modified delegation dated 14.06.2010, were held to be valid. Further, the learned Judge of this Court in the said decision had also validated the approvals granted by the Corporation on 14.07.2010. The Division Bench of this Court in *The District Collector/Chairman, The Director/Commissioner and The Member Secretary Vs. Danial Thangaraj and The Corporation Commissioner*, upheld the aforesaid decision of the learned Judge. Therefore, the first respondent contended that the revised building plan approval granted by the Corporation on 30.06.2010, is absolutely valid.

9. This Court, by order dated 30.04.2014, while adjourning the matter to 04.06.2014, had directed the third respondent to verify all the documents and complete the inspection and proceed with the other formalities, but, the grant of electricity connection alone was directed to be awaited till final orders be passed.

10. We find that as per the orders of this Court in the above cited decisions, the revised building plan approval given by the Corporation on 30.06.2010, is valid. Here, the learned Judge while considering the issue before him, had gone into

the materials available before him and found that it would be appropriate to direct the third respondent to verify the correctness of the documents to be produced by the first respondent, before giving electricity connection, which, in our opinion, merits acceptance. No doubt, the learned Judge did not straightaway issue any direction to the third respondent for providing electricity connection, but, he ordered the authority concerned, the third respondent, to go through the veracity of the documents produced before by the first respondent and thereafter, decide the issue as per law. Therefore, we find no substance in the arguments advanced by the learned Counsel for the appellant, as he had not made out a case for interference at the hands of this Court.

11. For the foregoing reasons, the writ appeal fails and the same stands dismissed. Consequently, the connected miscellaneous petition is dismissed. No costs.