

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.34909 of 2014

T.M.S.Kamal Abdul Kader

.. Petitioner

Vs.

- 1.The Secretary to the Government,
Housing and Urban Development Department,
Secretariat,
Madr-600 009.
- 2.The Chennai Metropolitan Development Authority,
rep by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Madras-600 008.

.. Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of mandamus to direct the first respondent herein to consider and pass orders on the petitioner's appeal and further representation submitted to the first respondent herein on 20.12.2013 and 04.03.2014 respectively against the order of the second respondent herein in his proceedings letter No.B3/16847/2013 dated 21.11.2013 in accordance with law and on merits and further direct the respondents herein to rectify the defects in the petitioner's building and to direct the second respondent to de-seal the building early in order to remove the deviated portions and get revised planning permission in time at the earliest.

For Petitioner: Mr.Azhagu Shivanandan

For Respondents: Mr.N.Sakthivel, GA for R-1

Mr.Sambath for R-2

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The only relief sought for in this petition is to issue a direction to the first respondent to consider the appeal dated 20.12.2013 filed by the petitioner and the representation dated 4.3.2014 pending before the first respondent.

2. The facts in brief are that being aggrieved by the order dated 21.11.2013 passed by the second respondent, whereunder the application for planning permission in respect of the construction of BF + GF + 3 Floors at Door No.103, 2nd Avenue, Anna Nagar, Chennai was returned unapproved, the petitioner preferred an appeal before the first respondent on 20.12.2013 under Section 80-A of the Town and Country Planning Act, 1971. The petitioner was informed vide communication dated 19.2.2014 to make further representation, if any. The petitioner has, thereafter, made another representation on 4.3.2014. Thereafter, no decision on the pending appeal has been taken as yet by the first respondent.

3. The learned counsel for the petitioner submits that the premises in question is under seal and lock and as such, the petitioner is suffering irreparably on account of unnecessary delay on the part of the first respondent. The statutory limit prescribed for disposal of the appeal is 90 days under Section 80-A of the Act.

4. Mr.N.Sakthivel, learned Government Advocate, appearing for the first respondent would submit that if the appeal is pending consideration, the same would be considered and decided in accordance with law, within a period of four weeks from the date of receipt of copy of this order.

5. Thus, having regard to the fact situation that the dispute is pending consideration before the appellate authority, we do not propose to express any opinion on the merits of the case. However, since the authorities have taken a long time to dispose of the appeal, we direct the first respondent to consider and decide the pending appeal dated 20.12.2013 in accordance with law and on its own merit, within a period of four weeks from the date of receipt of copy of this order.

6. Resultantly, the writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vvk

To

1.The Secretary to the Government,
Housing and Urban Development Department,
Secretariat,
Madras-600 009.

2.The Member Secretary,
The Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Madras-600 008.

+ 1 cc to M/s. Azhagu Shivanandan, Advocate Sr.85

+ 1 cc to Government Pleader Sr.235

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