

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/8/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.24649 of 2015

and

M.P. Nos.1 and 2 of 2015

Kirti Kumar Jain Petitioner

Vs

1. The Government of Tamil Nadu
rep. By Secretary to Government
Housing and Urban Development Department
Fort St. George
Secretariat
Chennai 600 009.
2. The Commissioner of Town and
Country Planning
No.807 Anna Salai
Chennai 600 002.
3. The Commissioner
Corporation of Chennai
Rippon Building
Chennai 600 003.
4. The Executive Engineer
Corporation of Chennai
Regional Office Central
Zone VIII, Division 104
Pulla Avenue, 2nd Cross Street
Shenoy Nagar
Chennai 600 030.

WEB COPY

5. The Member Secretary

Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road
Egmore
Chennai 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to consider the appeal filed dated 3/8/2015 by the petitioner under Section 80 (A) of the Tamil Nadu Town and Country Planning Act, 1971 within a time frame, in accordance with law.

For petitioner ... Mr. Jayesh B. Dolia
for M/s. Aiyar & Dolia

For respondents ... Mr.P.S.Sivashanmugasundaram
Special Government Pleader
for R.R.1 and 2.

Mr.A.Nagarajan
for R.R.3 and 4.

Mr.C.Johnson for R.5.

O R D E R

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

Feeling aggrieved by the notice dated 24th March, 2015 issued by the fourth respondent under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), the petitioner has preferred an appeal under Section 80-A of the Act before the first respondent-Government on 1st August, 2015, with an application for interim relief, on 3rd August, 2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on 4th August, 2015, seeking a direction to the Appellate Authority to dispose of the appeal, expeditiously.

2. At this stage, it is better to point out certain provisions of law under which an appeal is to be decided. The second proviso to Section 80-A of the Act prescribes that the application for revision/appeal filed under Section 80-A of the Act shall be disposed of by the Government within 90 days from the date of receipt of the application. Grant of 90 days time to dispose of the appeal is certainly with some object, perhaps, to obtain views of the authorities and also to provide an opportunity of hearing to all the

parties concerned. In that process, 90 days time may be required to render justice between the parties.

3. Now, the petitioner has come up with the instant writ petition within 4 days from the date of preferring the appeal, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, as, the Appellate Authority has not been given an opportunity to take action, within the reasonable time. Thus, this writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

4. Accordingly, this writ petition is dismissed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

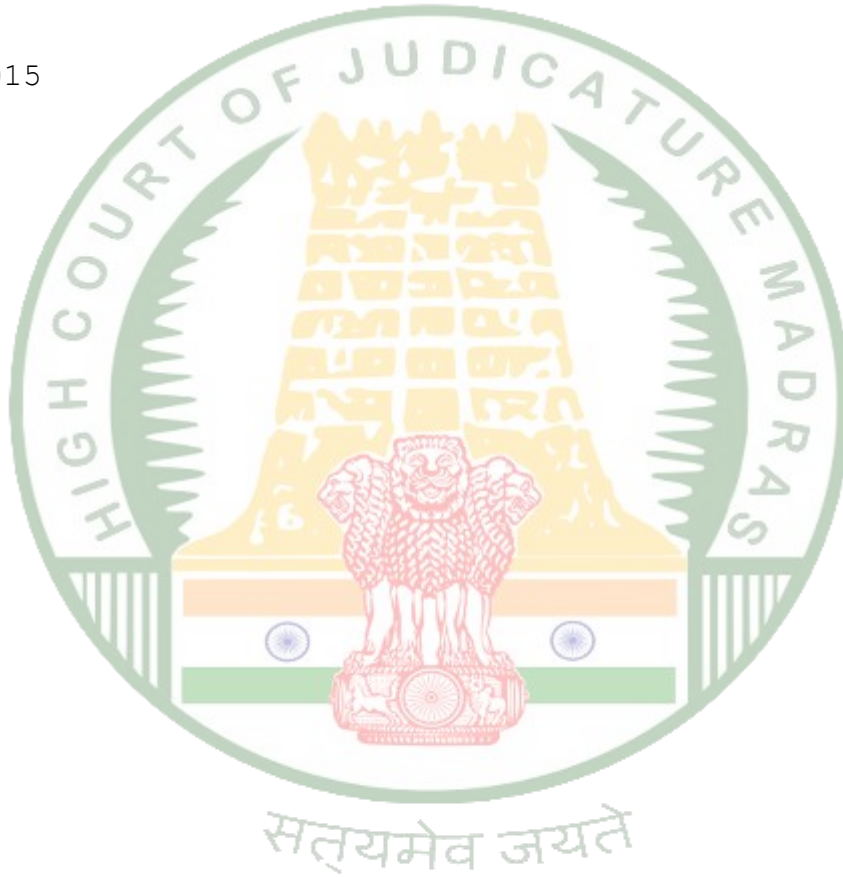
To

1. The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Fort St. George
Secretariat
Chennai 600 009.
2. The Commissioner of Town and Country Planning
No.807 Anna Salai
Chennai 600 002.
3. The Commissioner, Corporation of Chennai
Ripon Buildings, Chennai-600 003
4. The Executive Engineer, Corporation of Chennai
Regional office, Central Zone VIII Division 104
Pulla Avenue, 2nd Cross street, Shenoy Nagar,
Chennai-600 030
5. The Member Secretary, Chennai Metropolitan
Development Authority, NO.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

+1 cc to M/S.Aiyar & Dolia Advocates sr.41762
+1 cc to Mr.A.Nagarajan, Advocate sr.41652
+1 cc to Mr.C.D.Johnson, Advocate sr.41722
+1 cc to Government Pleader Highcourt, Madras
sr.41899

W.P. No.24649 of 2015

bvr (co)
aa25/08/2015



WEB COPY