

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.35239 of 2015

1. Mr. Shanthilal M. Jain

2. Mr. Lalith Kumar S. Jain.

Petitioners

Vs.

1. The Secretary to Government,
Housing and Urban Development (UD-V) Dept.,
Fort St. George, Secretariat, Chennai.9.

2. Chennai Metropolitan Development Authority,
rep. By its Member Secretary,
No.1 Gandhi Irwin Road,
Egmore, Chennai.8.

3. Corporation of Chennai,
rep. By its Commissioner,
Ripon Building, Park Town,
Chennai.3.

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the entire records of the 1st respondent relating in Ref. G.O.(3D) No.50, dated 24.10.2014 in rejecting Appeal petition for grant of planning permission under Tamilnadu Town and Country Planning Act bearing old Door No.1/101, New Door No.124 Avadana Pappier Road, Choolai, Chennai 600 112 comprised in

Re-Survey No.2071/3, quashing the same and consequently directing the 1st respondent to grant planning permission to the petitioners' building.

For petitioners Mr. AR.L.Sundaresan
 Sr. Counsel
 for
 M/s. D. Senthilkumar

For respondents Mr. N. Sakthivel
 Govt. Advocate – R1

Mr. K. Raja Srinivas – R2

Mr. A. Nagarajan - R3

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, this writ petition is taken up for final disposal.

2. Questioning the legality and validity of G.O.(3D) No. 50, Housing and Urban Development (UD-V) Department dated 24 October 2014 passed by the first respondent, the petitioners are before us solely on the ground that the said Government Order is passed without affording an opportunity of hearing to them.

3. Learned Government Advocate appearing for the first respondent submits that in fact, an opportunity of hearing was afforded to the petitioners, but, they had not chosen to appear for hearing.

4. On a perusal of the impugned Government Order, it is eloquent that there is no reference in respect of affording an opportunity of hearing to the petitioners. Though the order is exhaustive, advertent to each and every aspect, no adverse orders can be passed without giving opportunity of hearing to the petitioners, which is the fundamental basis of adjudication. Thus, in the interest of justice, the impugned order is liable to be quashed and is accordingly quashed.

5 Resultantly, the writ petition is allowed and the matter is remitted back to the authority concerned to take a decision afresh, after affording an opportunity of hearing to the petitioners to put forth their case.

Further, having regard to the nature of the dispute, we deem it fit and proper to fix the date of hearing before the authority concerned at 11.00 a.m. on 18 December 2015. The authority shall take a fresh decision on merits, as aforesaid, within a period of one week thereafter. No costs. Connected miscellaneous petition is closed.

(SATISH K. AGNIHOTRI, J.) (P. DEVADASS, J.)
14 December 2015

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Note: Issue order copy on or before 15.12.2015.

SATISH K. AGNIHOTRI, J.

and

P. DEVADASS, J.

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To

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