

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2015

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P. No.36301 of 2015
and M.P.No.1 of 2015

Zoyab Ali Hussain .. Petitioner

-vs-

- 1.The Government of Tamil Nadu,
rep. By the Secretary to Govt.,
Ministry of Housing and Urban
Development, Fort St. George, Chennai.
- 2.The Regional Deputy Commissioner
(North), Office of the Regional Deputy
Commissioner (North), Corporation
of Chennai, Chennai. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to dispose of the appeal dated 30.10.2015, filed as against the order of the 2nd respondent in Letter No.Dn60/Enf./1097/1 to 10/2015, dated 02.09.2015.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents : Mr.S.T.S.Murthi,
Govt. Pleader, assisted by
Mr.V.Shanmuga Sundar, G.A./R-1
: Mr.R.Arunmozhi for R-2

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

Admit. Mr.S.T.S.Murthi, learned Government Pleader, accepts notice for first respondent and Mr.R.Arunmozhi, learned counsel, accepts notice for the second respondent. At request of learned counsel for parties, the writ petition is taken up for final disposal.

2.Learned counsel for the petitioner states that he has obtained instructions that no fresh construction has been made from 1959 in the property and the owners are in enjoyment. The records that old relating to planning permission are not available. Despite this fact, the Corporation of Chennai has issued a notice under Sections 56 and 60 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, dated 02.09.2015, calling upon to produce the original sanction plan for the building, which has been assailed in appeal.

3.Learned counsel submits that even though the appeal is pending, no interim orders have been granted and he seeks expeditious disposal of the appeal.

4.Firstly on a general principle, while specifically advertng to the notice in question, we have to observe the undesirable practice of issuing notices of couple of days to produce records of this nature which only generates litigation. It is trite to say that a reasonable period of time should be made available, where records are liable to be produced. After all, the concerned authorities have slept over the matter for a long period of time. We call upon the Commissioner of Corporation, thus, to look into this aspect to lay down norms to prevent generation of unnecessary litigations by ensuring that reasonable periods of time is given to respond to the owner / assessee.

5.Now coming to the facts of the case, if there is no additional construction, we see no reason why records more than 50 years old be called for. It is not clear from the notice that any additional construction has been made. If it was so, it ought to have been averred in the notice.

6.The records being so old, they should, in fact, be available with the concerned authorities. Since it is the Corporation itself which approved the plan in 1959, the Corporation may take out the approved plans from its own records, since the petitioner affirms that he does not possess the records now, different legal heirs being in occupation of the original property over a period of 50 years.

7.We, thus, direct the Corporation to re-visit the issue after inspection of the property, i.e., whether any additional constructions have been made, after verifying the situation from its own records and if it is so made, would the occasion arise to issue notice for any further sanction which may or may not have been obtained. The verification can be as per the original records of the Corporation.

8.In view of the aforesaid direction, the appeal itself becomes infructuous and we quash the notice dated 02.09.2015 giving liberty to the Corporation to proceed in accordance with what we have stated aforesaid.

9.Writ Petition, accordingly, stands disposed of. No costs.
Consequently, M.P.No.1 of 2015 stands closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The Secretary to Govt of Tamil Nadu,
Ministry of Housing and Urban
Development, Fort St. George, Chennai.
- 2.The Regional Deputy Commissioner
(North), Office of the Regional Deputy
Commissioner (North), Corporation
of Chennai, Chennai.
- 3.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai.

+1cc to Mr.V. Ragavachary, Advocate, S.R.No.64999
+1cc to Mr.V. Ragavachary, Advocate, S.R.No.65286
+1 cc to Arunmozhi, Advocate SR.65219
+1cc to the Government Pleader, S.R.No.65259

VS(CO)
EU(09/12/2015)

W.P.No.36301 of 2015

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