

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2015

CORAM:

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

W.P. No. 6120 of 2015 and M.P. Nos.1 and 2 of 2015

Maruthi Builders

rep. By its Proprietor,
Pyarelal Jain,
No.42 Montieth Road,
Egmore, Chennai.8.

... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai, Chennai-3.
2. The Regional Deputy
Commissioner (Central),
Corporation of Chennai,
Zone 8, Chennai-30.
3. The Member Secretary,
CMDA Thalamuthu Natarajan Building,
Egmore , Chennai-8.
4. The State of Tamil Nadu
Rep. by Secretary to Government ,
Housing & Urban Development Department,
Fort St. George Chennai-9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the 2nd respondent in connection with the impugned notice issued in No. REGION CENTRAL/TPENF-0116/2015 dated 2.2.2015 and quash the same and further direct the respondents to consider the petitioner's revised plan dated 5.2.2015 and accord planning permission for conversion of the demised premises from residential into commercial establishment within a reasonable time .

For petitioner : Mr. T. Ayangaraprabhu
For R1 & R2 : Mr. G. Anantharangan
For R3 : Mr. J. Raja Srinivas
For R4 : Mr. N. Sakthivel

ORDER

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

Feeling aggrieved by the notice dated 02.02.2015 issued by the second 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 23.02.2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on 27.02.2015, 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 5 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. We deprecate this practice of rushing to the Writ Court invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, without waiting for a decision within the prescribed statutory period. This practice is tantamount to abuse of judicial process.

5. Learned counsel for the petitioner submits that the petitioner may be permitted to file an application for interim relief

within a period of two weeks. He also submits that the petitioner will comply with the stop work notice in its letter and spirit and no further construction will be carried out till the disposal of the said application for interim relief. If such an application is filed, we expect that the authorities will consider the application for interim relief, at the earliest, preferably within a period of two weeks. In that event, status quo, in respect of the property in question, as obtained today, shall be maintained for a period of two weeks from today.

6. The writ petition stands disposed of, with the above observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

ra Sub Assistant Registrar

To

1. The Commissioner,
Corporation of Chennai, Chennai-3.
2. The Regional Deputy
Commissioner (Central),
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Zone 8, Chennai-30.
3. The Member Secretary,
CMDA Thalamuthu Natarajan Building,
Egmore, Chennai-8.
4. The State of Tamil Nadu
Rep. by Secretary to Government,
Housing & Urban Development Department,
Fort St. George Chennai-9.

+2cc's to M/s.G.Anantharangan, Advocate, S.R.No.13486,12552
+2cc's to M/s.M.Muthappan, Advocate, S.R.No.12783,13073
+1cc to Mr.K.Raja Srinivas, Advocate, S.R.No.13092
+1cc to the Government Pleader, S.R.No.12720

CA(CO)
CA(19/03/2015)

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