

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.20401 of 2009
and M.P.No.1 of 2009

M.Mohanlal KhatriPetitioner

Vs

1.The Government of Tamil Nadu
Rep. By its Secretary
Housing and Urban Development Department
Secretariat
Chennai-600 009

2.Chennai Metropolitan Development Authority
Rep. By its Member Secretary
No.1, Gandhi-Irwin Road
Egmore, Chennai-600 008Respondents

Prayer :- Writ Petition filed praying to issue a Writ of Certiorarified Mandamus calling for the entire records of the 1st respondent in proceedings G.O.(3D).No.100 dated 09.09.2009 in rejecting the petitioner's appeal petition for grant of planning permission by regularizing the building put up at No.68 and 69, N.S.C.Bose Road, V.O.C.Nagar, (comprised in R.S.No.8868 and 8869, Block No.24) Chennai-79, confirming the orders passed by the 2nd respondent dated 29.07.2005 in letter No.C3/12973/05 by quashing the same and consequently direct the respondents to accord planning permission by regularizing the constructions put up by the petitioner in the aforementioned property.

For Petitioner:- Mr.P.Ramanathan

For resondents:- Mrs.A.Srijayanthi,
Spl.Govt.Pleader for R1
Mr.A.Kumar for R2.

ORDER

(Order of the court was made by HULUVADI G. RAMESH, J.)

Heard Mr.P.Ramanathan, learned counsel for the petitioner, Mrs.A.Srijayanthi, learned Special Government Pleader for the 1st respondent and Mr.A.Kumar, learned counsel for the 2nd respondent.

2. This Writ Petition is filed seeking to quash the order of the 1st respondent in proceedings G.O.(3D).No.100 dated 09.09.2009 in rejecting the petitioner's appeal in respect of grant of planning permission for the building put up at No.68 and 69, N.S.C.Bose Road, V.O.C.Nagar, (comprised in R.S.No.8868 and 8869, Block No.24) Chennai-79, and for a consequential direction to the respondents to accord planning permission by regularizing the constructions put up by the petitioner in the aforementioned property.

3. Pursuant to the petitioner's appeal filed under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971, the first respondent herein passed the impugned order dated 09.09.2009, rejecting the appeal pointing out that the violation/deviations noted are larger in extent and there is no scope for minimizing them.

4. According to the learned counsel for the petitioner, the first respondent has passed the impugned order without affording any opportunity to the petitioner and also failed to assign any reason with regard to the grounds raised by the petitioner in the appeal petition. The learned counsel also contended that Sub-Section 3 of Section 79 requires the Appellate Authority to give an opportunity to the parties to make their representation before any orders are passed and as such, the order impugned has been passed in non-compliance of the principles of natural justice.

5. Taking into consideration the submissions made by the learned counsel for the petitioner, we are of the view that it is always open to the Appellate Authority to consider the request of the petitioner regarding opportunity of personal hearing. In fairness to the contention of the Writ Petitioner with regard to non-compliance of the principles of natural justice, the matter is remanded back to the 1st respondent for de novo consideration in accordance with law and after affording an opportunity of personal hearing.

6. In the result, the impugned order dated 09.09.2009 passed by the 1st respondent is set aside and the matter is remanded back for de novo consideration. The Writ Petition is disposed

of accordingly. No costs. Consequently, connected M.P.No.1 of 2009 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.Secretary, The Government of Tamil Nadu
Housing and Urban Development Department
Secretariat
Chennai-600 009

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

1 cc to Mr.R.Mohan, Advocate, sr.39822

1 cc to Mr.A.Kumar, Advocate, sr.40590

1 cc to Government Pleader, sr.40263

सत्यमेव जयते W.P.No.20401 of 2009

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