

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.05.2016

CORAM

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.18524 of 2016
and
W.M.P.No.16207 of 2016

C.Sagadevan ... Petitioner

vs

1. State of Tamil Nadu
rep.by its Secretary to Government
Housing and Urban Development
Department, Fort St.George
Chennai 600 009.

2. The Commissioner
Corporation of Chennai
Park Town, Chennai 600 003.

3. Executive Engineer
TP Enforcement Region Central
Corporation of Chennai
2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar
Chennai 600 003.

4. C.Radhakrishnan .. Respondents

Petition filed under Article 226 of the Constitution of India, praying this Court for the issue of a Writ of mandamus to direct the first respondent to provide personal hearing to the petitioner in respect of the appeal filed under Section 80A of the Town and Country Planning Act and dispose the appeal filed against the impugned notice in Ref.No.REGIONCENTRAL/TPENF/1790/2016 dated 29.04.2016 issued under Section 56 and 57 r/w Section 85 of the Tamil Nadu Town and Country Planning Act,1971 and Amended Act 61 of 2008 on the file of the third respondent and pass necessary orders.

For Petitioner ... Mr.J.R.K.Bhavanantham
For Respondents ... Mr.V.Jayaprakash Narayanan
Special Government Pleader for R1
Mr.A.Nagarajan for RR2 and 3

ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.,)

By consent of both parties, the main writ petition itself is taken up for disposal.

2. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader accepts notice on behalf of the first respondent and Mr.A.Nagarajan, learned Standing Counsel appearing for the Chennai Corporation accepts notice on behalf of respondents 2 and 3.

3. The prayer in the writ petition is for the issuance of a writ of mandamus to direct the first respondent to provide personal hearing to the petitioner in respect of the appeal filed under Section 80A of the Town and Country Planning Act and dispose the appeal filed against the impugned notice in Ref.No.REGIONCENTRAL/TPENF/1790/2016 dated 29.04.2016 issued under Section 56 and 57 r/w Section 85 of the Tamil Nadu Town and Country Planning Act,1971 and Amended Act 61 of 2008 on the file of the third respondent and pass necessary orders.

4. Learned counsel appearing for the petitioner submitted that the Tamil Nadu Slum Clearance Board allotted Plot No.15, Door No.5/12, XIX Street, Ashok Nagar comprised in T.S.No.45, Block No.19, Kodambakkam Village, Mambalam Guindy Taluk, Chennai under the Last Grade Government Servant Scheme to an extent of 94 sq.mts., to the petitioner's father and after his death, the same was re-allotted in the joint name of the petitioner and the fourth respondent, who is his brother and sale deed was also executed in their favour. According to the petitioner, for putting up the super structure in respect of this limited area, no planning permission is necessary. However, due to some dispute, the fourth respondent herein gave a complaint to the third respondent, who in turn, has sent a notice dated 29.04.2016 calling upon the petitioner to produce a copy of the approved plan in original and a photocopy of the same for verification. Challenging the legality of the same, the petitioner preferred an appeal before the first respondent along with a stay petition, seeking to stay the operation of the impugned notice and pendency of appeal, comes forward before this Court prays for personal hearing.

5. The Court heard the submissions of the respective parties.

6. Though the petitioner prayed for a larger relief, in the light of the facts and circumstances of the case, this Court directs the first respondent either to dispose of the appeal filed by the petitioner under Section 80(i) of Town and Country Planning Act, 1971 and Amended Act, 2008 or the petition for

stay/suspension of the impugned notice, on or before 29.06.2016 and till then, the respondents 2 and 3 shall defer further action based on the notice dated 29.04.2016 calling for production of approved plan in original.

7. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vj2
To

1. The Secretary to Government
of Tamil Nadu
Housing and Urban Development
Department, Fort St.George
Chennai 600 009.
2. The Commissioner
Corporation of Chennai
Park Town, Chennai 600 003.
3. The Executive Engineer
TP Enforcement Region Central
Corporation of Chennai
2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar
Chennai 600 003.

+1cc to Mr.A. Nagarajan, Advocate, S.R.No.28759
+1cc to Mr.J.R.K. Bhavanantham, Advocate, S.R.No.28715
+1cc to the Government Pleader, S.R.No.28937

UG(CO)
EU(06/06/2016)

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