

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.22187 of 2016

Mrs.Chandra Devi
W/o Rajendra Kumar

.. Petitioner

-vs-

1. Government of Tamil Nadu
rep.by its Secretary to Government
Housing & Urban Development Department
Secretariat, Chennai 600 009

2. The Executive Engineer
Zone-III, Corporation of Chennai
No.3, Vadivel Second Cross Street
Perambur, Chennai 600 011

3. Chennai Metropolitan Development Authority
rep.by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in their G.O. (3D) No.14 dated 13.01.2016, relating to rejection of the statutory appeal dated 11.04.2011 for regularisation of the building at Old Door No.14, New Door No.16, Vathiyar Kandapillai Street, Vepery, Chennai 600 012 and quash the same in so far as the third floor of the said flat is concerned and consequently direct the first respondent to hear the petitioner in the said appeal dated 11.04.2011, pass fresh orders in accordance with law.

For Petitioner :: Mr.V.Murugavel

For Respondents:: Mr.P.S.Sivashanmugasundaram
Special Government Pleader for R1
Mr.V.C.Selvasekaran for R2
Mr.C.Johnson for R3

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader is directed to take notice on behalf of the first respondent. Mr.V.C.Selvasekaran, learned counsel is directed to take notice on behalf of the second respondent and Mr.C.Johnson, learned counsel is directed to take notice on behalf of the third respondent.

2. The prayer in the writ petition is for issuance of a writ of certiorarified mandamus, calling for the records of the first respondent in their G.O.(3D) No.14 dated 13.01.2016, relating to rejection of the statutory appeal dated 11.04.2011 for regularisation of the building at Old Door No.14, New Door No.16, Vathiyar Kandapillai Street, Vepery, Chennai 600 012, quash the same in so far as the third floor of the said flat is concerned and consequently direct the first respondent to hear the petitioner in the said appeal dated 11.04.2011 and pass fresh orders in accordance with law.

3. Heard the learned counsel for the petitioner and the respective learned counsel for the respondents.

4. The petitioner is said to have purchased a flat in the third floor of Door No.16, Vathiyar Kandapillai Street, Vepery, Chennai during 2012 and got all the records transferred in her name. However, without obtaining the consent from the petitioner, the developer is said to have submitted a revised plan application under Section 49 of the Tamil Nadu Town and Country Planning Act to the second respondent and the same was dismissed. Aggrieved by the said order, the developer had preferred a statutory appeal to the first respondent under Section 79 of the Tamil Nadu Town and Country Planning Act and without any personal enquiry or further hearing being afforded to the petitioner/owner, the appeal has been rejected by the impugned order. Thus, alleging violation of the principles of natural justice, the petitioner is before this Court.

5. In view of the above, we direct the petitioner to submit a representation to the first respondent, as per Section 79(3) of the Tamil Nadu Town and Country Planning Act, within one

month from the date of receipt of a copy of this order and on such representation being filed, it is for the first respondent to hear the petitioner and pass appropriate orders in accordance with law. It is made clear that till the disposal of the representation filed by the petitioner, status quo shall be maintained. The writ petition stands disposed of. Consequently, W.M.P.Nos.18924 & 18925 of 2016 are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Housing & Urban Development Department,
Secretariat,
Chennai 600 009.
2. The Executive Engineer,
Zone-III, Corporation of Chennai,
No.3, Vadivel Second Cross Street,
Perambur,
Chennai 600 011.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai 600 008.

+1cc to Mr.V.Murugavel, Advocate Sr.35829

W.P.No.22187 of 2016

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srg 20/07/2016

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