

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.4285 of 2017

K.B..Edison

.. Petitioner

Vs

1. The Government of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development Department
Fort St. George, Chennai 9.
2. Chennai Metropolitan Development Authority
Rep. by its Member-Secretary
No.1, Gandhi-Irwin Road, Egmore
Chennai 8
3. Corporation of Chennai
Rep. by its Regional
Deputy Commissioner
Pulla Avenue, Shenoy Nagar,
Chennai 30.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records of the 1st respondent in letter No.17369/UD-VI(I)/2016-1, dated 31.01.2017 in rejecting the petitioner's review petition filed under Town and Country Planning Act as against locking and sealing of the respondents 2 and 3 for the building put up No.4, Lake Area, 7th Cross Street, Nungambakkam, Chennai - 34 by quashing the same and consequently forbear the respondents from initiating any coercive action of locking and sealing of the building put up in the aforementioned property.

For Petitioner : Mr.R.Mohan

For Respondents : Mr.T.N.Rajagopalan
Spl. Government Pleader
for 1st respondent

Mr.Rajasrinivas
for 2nd respondent

Mr.A.Nagarajan
for 3rd respondent

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.T.N.Rajagopalan, learned Special Government Pleader takes notice for the first respondent. Mr. Rajasrinivas, learned counsel takes notice for the second respondent and Mr.A.Nagarajan, learned counsel takes notice for the third respondent.

2. Heard the learned counsel for the parties.

3. It is the case of the petitioner that after obtaining planning permission from CMDA for construction of basement + stilt + ground + three floors in the year 2006, the entire construction was structurally over by early 2007. According to the petitioner, there are marginal variations in the construction from the approved plan. Complaints were lodged by the neighbours and proceedings were initiated by the department to lock and seal the premises. The petitioner alleges that he had filed two separate appeals under Section 79 and 80A of the Tamil Nadu Town and Country Planning Act, 1971. The review petition filed by the petitioner was rejected by the impugned order dated 31.1.2017. Assailing the same, the present writ petition is filed.

4. At the outset, the learned counsel for the petitioner seeks a direction that a policy decision should be taken by the Government to regularize the unauthorized constructions. It is contended that the appeal of the petitioner filed under Section 79 of the Tamil Nadu Town and Country Planning Act has not been considered by the respondent/authorities till date and without passing any order in this appeal the review petition is rejected and, therefore, the same should be set aside.

5. The learned Special Government Pleader appearing for the first respondent submits that there is no scope for entertaining a review petition and in fact, there is no provision for reviewing the orders passed. It is also contended that there is no appeal filed under Section 79 of the said Act pending on the file of the first respondent.

6. It is trite that matters relating to framing and implementation of policy primarily fall in the domain of the Government. It is for the Government to frame any policy as it may deem fit and proper and there cannot be a mandamus issued in this regard.

7. Coming to the case on hand, it transpires that instead of three floors, the petitioner has put up six floors, for which he has sought for regularization and the same was rejected. Therefore, we do not find any reason to interfere with the impugned order rejecting the review petition filed by the petitioner. However, considering the facts and circumstances of the present case, we grant two months time to the petitioner to bring the construction in conformity with the approved plan. If the petitioner fails to comply with the said direction within the stipulated time, the respondent/authorities are at liberty to proceed in accordance with law.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.4482 and 4483 are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development
Department
Fort St. George, Chennai 9.
2. The Member-Secretary
Chennai Metropolitan Development
Authority No.1, Gandhi-Irwin Road,
Egmore
Chennai 8.
3. The Regional Deputy Commissioner
Corporation of Chennai
Pulla Avenue, Shenoy Nagar,
Chennai 30.

+1cc to Mr.R. Mohan, Advocate, S.R.No.10805
+1cc to Mr.K. Raje Srinivas, Advocate, S.R.No.10972
+1cc to Mr.A. Nagarajan, Advocate S.R.No.10853

KJ(CO)
EU 02.3.17

W.P.No.4285 of 2017

सत्यमेव जयते

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