

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2017

CORAM

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

W.P.No.5406 of 2017
and W.M.P.No.5733 of 2017

D.Arunkumar .. Petitioner
Vs

- 1 The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-600009.
 - 2 The Chennai Metroplitan Development Authority
Rep. by Member Secretary
Thalamuthu Natarajan Building
Gandhi Irwin Road
Egmore, Chennai-600 008.
 - 3 The Commissioner
Corporation of Chennai
Ripon Buildings,
Chennai.
 - 4 The Zonal Officer
Zonal Officer,
Greater Chennai Corporation
Regional Office Zone VI 2nd Cross St
Pulla Avenue, Shenoy Nagar,
Chennai-600030.
 - 5 The Executive Engineer
Zone VI Greater Chennai Corporation
5 Anderson Road, Aynavaram,
Chennai-600 023.
- .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records of the proceedings of Letter No.2461/ UD-VII (1)/ 2017-1 dated 15.02.2017 issued by 1st respondent and to quash the same as illegal and without jurisdiction.

For Petitioner : Mr.V.Raghavachari
for M/s.Govind Chandrasekhar

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

Mr.K.Rajasrinivas
for 2nd respondent

Mr.V.C.Selvasekar
for respondent Nos.3 to 5

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.K.Rajasrinivas, learned counsel takes notice for the second respondent. Mr.V.C.Selvasekar, learned counsel takes notice for the respondents 3 to 5.

2. It appears that the petitioner has obtained the property in question under a lease from the Hindu Religious and Charitable Endowments Board and the land belongs to a temple. As the existing structure was old and dilapidated, the petitioner replaced it with a pucca construction. The respondent authorities issued lock and seal notice and de-occupation notice. Assailing the same, the petitioner preferred an appeal under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971. The said appeal was rejected on the ground that the petitioner himself admitted that the property was redeveloped without obtaining any plan approval. Challenging the order rejecting the appeal, the present writ petition is filed.

3. It is the case of the petitioner that before rejecting the appeal filed by the petitioner, the respondent/authorities have not afforded him an opportunity of hearing and, therefore, the impugned order is liable to be set aside on the sole ground of violation of principles of natural justice. He further submits that the petitioner may be given an opportunity to put forth his case along with all relevant documents, including No Objection Certificate from the temple authorities.

4. On hearing the learned counsel for the parties, we direct the first respondent to re-examine the appeal filed by the petitioner under Section 80A of the said Act and pass appropriate orders in accordance with law, after affording an opportunity of hearing to the petitioner. The petitioner is granted fifteen days time to put forth his case with all relevant documents, including his right over the temple

property, and the first respondent shall pass appropriate orders fifteen days therefrom. The impugned order dated 15.2.2017 is modified in terms of the directions passed hereinabove.

The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sasi
To

- 1 The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-600009.
- 2 The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
Gandhi Irwin Road
Egmore, Chennai-600 008.
- 3 The Commissioner
Corporation of Chennai
Ripon Buildings,
Chennai.
- 4 The Zonal Officer
Zonal Officer,
Greater Chennai Corporation
Regional Office Zone VI 2nd Cross St
Pulla Avenue, Shenoy Nagar,
Chennai-600030.
- 5 The Executive Engineer
Zone VI Greater Chennai Corporation
5 Anderson Road, Aynavaram,
Chennai-600 023.

+1cc to Mr.Govind Chandrasekar, Advocate, S.R.No.14296
+1cc to Mr.K.Rajsrinivas, Advocate, S.R.No.13897
+1cc to the Government Pleader, S.R.No.14216

AK(CO)
RS(16/03/2017)

W.P.No.5406 of 2017