

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.9614 of 2017

A.Marimuthu

.. Petitioner

Vs.

- 1 Government of Tamilnadu
rep. by its Secretary
Housing and Urban Development Department
Fort St. George, Chennai-9.
- 2 The Member Secretary
Chennai Metropolitan Development Authority
Thala Muthu Natarajan Building
Gandhi Erwin Road, Chennai.
- 3 The Commissioner
Corporation of Chennai
Rippon Building
Chennai-3.
- 4 The Executive Engineer
(Enforcement Region Central)
No.1, Lake Area, 4th Cross Street
Nungambakkam, Chennai.
- 5 The Assistant Executive Engineer
Unit 26, No.1, Lake Area
4th Cross Street, Nungambakkam
Chennai.
- 6 The Junior Engineer
Division 117, No.1, Lake Area
4th Cross Street, Nungambakkam
Chennai.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the 1st respondent to dispose of the appeal dated 23.2.2017 filed as against the order of the 2nd respondent dated 2.2.2017 in Letter No.Reg.I/B4/BC2/34437/2003.

For Petitioner : Mr.V.Raghavachari

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

Mr.C.Johnson
for 2nd respondent

Mr.A.Nagarajan
for respondents 3 to 6

ORDER

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

This writ petition has been filed with a very simple prayer. The prayer is to direct the first respondent before us to dispose of an appeal dated 22.2.2017 (filed on 23.2.2017), against an order dated 2.2.2017, bearing reference Letter No.Reg.I/B4/BC2/34437/2003, made by the second respondent. The first respondent before us is the Secretary to Government, Housing and Urban Development Department and the second respondent before us is the Member Secretary, Chennai Metropolitan Development Authority.

2. Mr.T.N.Rajagopalan, learned Special Government Pleader accepts notice on behalf of the first respondent. Mr.C.Johnson, learned counsel accepts notice for the second respondent and Mr.A.Nagarajan, learned counsel accepts notice for respondents 3 to 6.

3. The learned counsel for the respondents do not dispute that the above said appeal dated 22.2.2017 has in fact been filed before the first respondent on 23.2.2017.

4. The learned counsel for the respondents bring it to our notice that the above said appeal being one directed against the order of the second respondent dated 2.2.2017 (as aforesaid), would not lie under Section 80A, but should have been filed only under Section 79 (all provisions of law referred to in this order are provisions of the Tamil Nadu Town and Country Planning Act, 1971).

5. It is also not in dispute before us, as would be evident from the submissions made at the bar, that the statutory authority to dispose of appeals under Section 80A and Section 79 is the first respondent. Therefore, we deem it appropriate not

to express any opinion on whether the appeal should be under Section 80A or Section 79, particularly in the light of the fact that the statutory authority to decide both is the first respondent (that being the undisputed position before us).

6. In the light of what we have said above, we deem it appropriate to direct the first respondent before us, namely, the Secretary to Government, Housing and Urban Development Department, to dispose of the appeal preferred by the petitioner being appeal dated 22.2.2017 (filed in 23.2.2017), in accordance with law within a period of three months from the date of receipt of a copy of the order, after affording an opportunity to parties concerned as may be necessary under law.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.10572 of 2017 is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

sasi

To:

- 1 The Secretary
Government of Tamilnadu
Housing and Urban Development Department
Fort St. George, Chennai-9.
- 2 The Member Secretary
Chennai Metropolitan Development Authority
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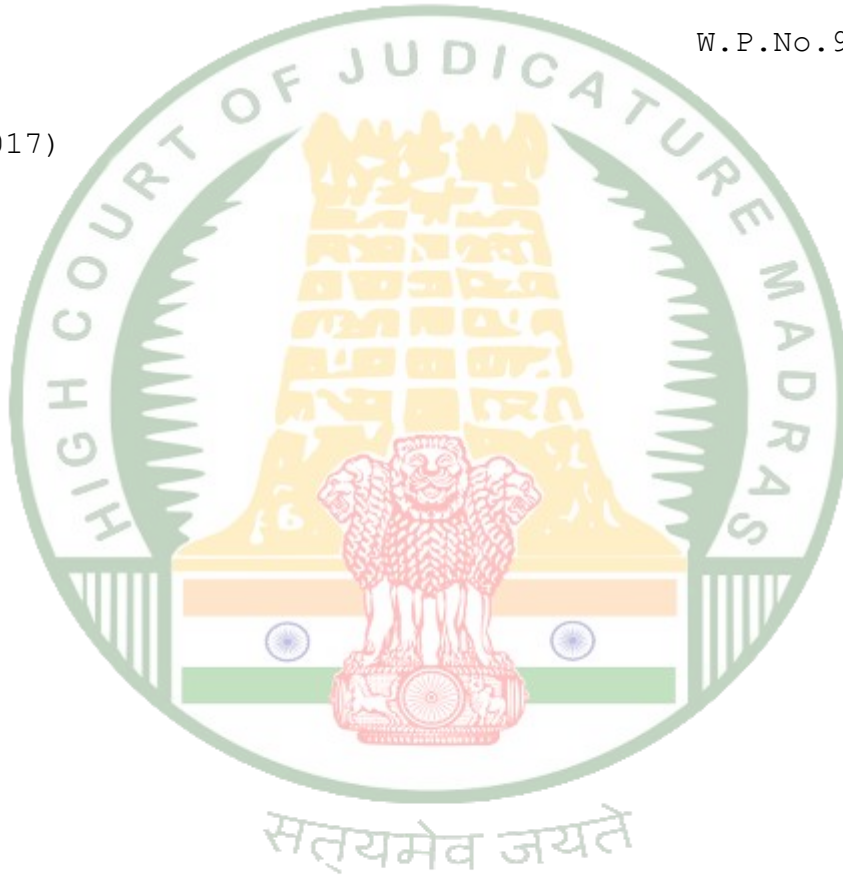
+1cc to M/s.V.Raghavachari, Advocate sr.24156

+1cc to M/s.A.Nagarajan, Advocate sr.23811

+1cc to M/s.C.Johnson, Advocate sr.24005

W.P.No.9614 of 2017

ss (co)
ss (24/4/2017)



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