

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.5801 of 2017

K.Alagar Perumal

.. Petitioner

Vs.

- 1 The Government of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai - 9.
 - 2 Chennai Metropolitan Development Authority
Rep by its Member Secretary
No.1, Gandhi Irwyn Road, Egmore
Chennai - 8.
 - 3 Naravarikuppam Town Panchayat
Rep by its Executive Officer
Redhills, Chennai - 52.
- .. Respondents

PRAYER: Petition filed 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 their G.O.(3D) No.111, dated 28.7.2016 relating to rejection of the Appeal under section 80(A) of the Town and Country Planning Act, 1971 with respect of the premises at Survey No.86/2, Naravarikuppam Village, GNT Road, Red Hills, Chennai - 52 and quash the same and direct respondents 2 and 3 to forbear them from in anyway interfering with the above said premises particularly by way of demolition of any portion or portions thereof.

For Petitioner : Mr.D.S.Rajasekaran

For Respondents : Mr.R.Vijayakumar
Addl. Government Pleader
for respondents 1 and 3

Mr.K.Rajasrinivas
for 2nd respondent

ORDER

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

Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for respondents 1 and 3. Mr.K.Rajasrinivas, learned counsel takes notice for the second respondent.

2. The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in their G.O.(3D) No.111, dated 28.7.2016 relating to rejection of the Appeal under section 80 (A) of the Tamil Nadu Town and Country Planning Act, 1971 with respect of the premises at Survey No.86/2, Naravarikuppam Village, GNT Road, Red Hills, Chennai - 52 and quash the same and direct respondents 2 and 3 to forbear them from in anyway interfering with the above said premises particularly by way of demolition of any portion or portions thereof.

3. The petitioner is in occupation of the first floor of the building. It is his plea that the second respondent/CMDA did not issue lock and seal notice to him, but has sealed the premises. The petitioner preferred an appeal under Section 80A of the said Act along with stay application and the same was rejected. Challenging the same, the present petition is filed to forbear the respondents from taking any coercive action.

4. It is the plea of the petitioner that before rejecting the appeal filed by the petitioner, the first respondent has not afforded him an opportunity of hearing and that the application for regularization filed by the petitioner under Section 49 of the said Act is pending consideration with the second respondent and the said fact was not considered by the first respondent.

5. On hearing the learned counsel for the parties, we set aside the impugned order on the short ground that the petitioner was not given an opportunity of hearing before passing the same. The petitioner is directed to approach the first respondent with

all relevant documents on or before 28.3.2017. Thereafter, the first respondent shall consider the case of the petitioner and pass appropriate orders on merits and in accordance with law within two months. Till the conclusion of the said proceedings, no coercive action shall be taken against the petitioner.

The petition is disposed of accordingly. No costs. Consequently, W.M.P.No.6210 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sasi

To

- 1 The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Secretariat, Chennai - 9.
- 2 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwyn Road, Egmore
Chennai - 8.

+1cc to Mr.Rajasrinivas, Advocate, S.R.No.15005
+1cc to Mr.Rajasekaran, Advocate, S.R.No.14988
+1cc to the Government Pleader, S.R.No.15253

RJ(CO)
RS(14/03/2017)

W.P.No.5801 of 2017

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