

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.03.2017

CORAM

THE HONOURABLE MR. HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P. NO. 4842 OF 2017
AND
W.M.P. NO. 5063 OF 2017

L.Chandrasekar

... Petitioner

- Vs -

1. The Secretary to Government
Housing & Urban Development Dept.
Secretariat, Chennai 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai - 8.
3. The Commissioner
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.
4. The Executive Engineer (Zone X)
Town Planning Section (Works Dept.)
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records on the file of the first respondent in his Proc. In G.O. (3D) No.14, Housing & Urban Development (UD-VI (1)) Dept., dated 13.1.2017 and quash the said impugned G.O. of the first respondent dated 13.1.2017 and consequently direct the first respondent to approve and regularize the building plan for No.10, New Colony, S.O.Balasubramaniam Salai, Sivalingapuram, K.K.Nagar, Chennai 600 078.

For Petitioner : Mr. M.Sriram

For Respondent : Mr. M.K.Subramanian,
Government Pleader for R-1

Mr. Raja Srinivas for R-2
Mr. V.C.Selvasekaran for RR-3 to 4

ORDER

(DELIVERED BY THE HON'BLE ACTING CHIEF JUSTICE)

This writ petition has been filed by the petitioner for quashing the proceedings of the first respondent in Proc. In G.O. (3D) No.14, Housing & Urban Development (UD-VI (1)) Dept., dated 13.1.2017 and quash the said Government Order and consequently direct the first respondent to approve and regularize the building plan for No.10, New Colony, S.O.Balasubramaniam Salai, Sivalingapuram, K.K.Nagar, Chennai 600 078.

2. Mr.M.K.Subramanian, learned Government Pleader takes notice for the first respondent. Mr.Raja Srinivas, learned standing counsel takes notice for the 2nd respondent and Mr.V.C.Selvasekaran, learned counsel takes notice for the 3rd and 4th respondents.

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

4. It is the case of the petitioner that he preferred an appeal u/s 79 of the Tamil Nadu Town & Country Planning Act seeking regularisation of the building planning permission. However, the said request was rejected by the first respondent. Since no further appeal remedy is available as against the said impugned order, left with no other alternative, the petitioner is before this Court by filing this petition.

5. Though the prayer as made in the writ petition is for a direction to quash the impugned proceedings with a further direction to the respondents to regularise the building plan, however, at the time of hearing, learned counsel appearing for the petitioner submitted that though the appeal was filed under Section 79 and 80-A of the Tamil Nadu Town and Country Planning Act, before passing the order, he has not been granted an opportunity of hearing to submit the materials to vindicate his stand and the order has been passed by the first respondent in a mechanical manner. It is therefore prayed that the impugned order may be set aside and the first respondent may be directed to grant an opportunity of hearing to the petitioner before passing order.

6. In view of the limited relief sought for, without going into the merits of the issue, the impugned order passed by the 1st respondent is set aside and the matter is remitted back to the file of the 1st respondent, who shall, before deciding the issue, grant an opportunity of hearing to the petitioner to submit his side of the case and, thereafter, pass orders in accordance with law as early as possible.

7. Accordingly, this writ petition is disposed of with the aforesaid observation and direction. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
Housing & Urban Development Dept.
Secretariat, Chennai 600 009.
2. The Member Secretary
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Town Planning Section (Works Dept.)
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.

+1cc to Mr.M.Sriram, Advocate, S.R.No.14334
+1cc to Mr.K.Raja Srinivas, Advocate, S.R.No.14354
+1cc to the Government Pleader, S.R.No.14708

W.P.No.4842 of 2017

RSI (CO)
CA(04/04/2017)

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