

In the High Court of Judicature at Madras

Dated : 28.12.2017

Coram :

The Honourable Mr.Justice M.S.RAMESH

and

The Honourable Mr.Justice G.R.SWAMINATHAN

Writ Petition No.34093 of 2017 & WMP.No.37846 of 2017

Viswanathan

...Petitioner

Vs

1. The Secretary,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

2. The Assistant Engineer,
Division No.109 (76),
Gill Nagar, Choolaimedu,
Chennai-94.

3. The Executive Engineer,
Zone-09,
No.01, Lake Area, 4th Street,
Nungambakkam, Chennai-34.

...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to dispose of the Statutory Appeal filed by the petitioner under Section 79 read with 80-A of the Town and Country Planning Act, 1971 dated 12.12.2017, with respect to the property situated in No.50/44, Plot No.5, West Namachivayapuram, Choolaimedu, Chennai-94, within a time fixed by this Court.

For Petitioner : Mr.S.C.Viswanth
For Respondent-1 : Mr.T.M.Pappiah, Spl.G.P.
For Respondents 2 & 3 : Mr.A.Nagarajan

Order of the Court was made by M.S.RAMESH,J

Mr.T.M.Pappiah, learned Special Government Pleader accepts notice for the first respondent. Mr.A.Nagarajan, learned Standing Counsel accepts notice for respondents 2 and 3.

2. The writ petition has been filed by the petitioner seeking to issue a Writ of Mandamus, directing the 1st respondent to dispose of the Statutory Appeal filed by the petitioner under Section 79 read with 80-A of the Town and Country Planning Act, 1971 dated 12.12.2017, with respect to the property situated in No.50/44, Plot No.5, West Namachivayapuram, Choolaimedu, Chennai-94, within a time fixed by this Court.

3. It stated by the petitioner that his father has been allotted with Plot No.5, West Namachivayapuram, Choolaimedu, Chennai-94 by the City Improvement Trust under the World Bank Scheme and the petitioner's father has constructed a hut thereon and during the year 1970, due to flood, the entire locality had been ravished. After the demise of the petitioner's father during 1997 and after completing the entire instalment, the Slum Clearance Board had executed a Sale Deed in favour of the petitioner. While so the petitioner has submitted a proposed plan for renovation and construction of house and the same was approved by the Estate Officer of the Slum Clearance Board. Further, all the revenue dues including water tax, property tax have been paid to the said property. While so, the third respondent issued a stop work notice to the petitioner calling for approved plan. The petitioner furnished all the documents pertaining to the property in question including the plan approval from the Corporation of Chennai. Again, on 09.11.2017, the third respondent issued locking and sealing notice to the petitioner. Immediately, the petitioner approached the first respondent by filing a Appeal under Section 80(A) of the Tamil Nadu town and Country Planning Act under Section 79 read with 80 (A) of the Tamil Nadu Town and Country Planning Act, 1971 on 12.12.2017 and the same is still pending. Apprehending that the respondents would initiate coercive action, the petitioner has come forward with the above writ petition.

4. Considering the facts and circumstances of the case, we direct the first respondent to consider the Appeal filed by the petitioner on 12.12.2017 and pass appropriate orders on merits and in accordance with law after affording an opportunity of hearing to the petitioner, within three months from the date of receipt of a copy of this order. Till the disposal of the revision, no coercive steps shall be taken by the respondent authorities.

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

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.
 - 2.The Assistant Engineer,Chennai Corporation
Division No.109 (76),
Gill Nagar, Choolaimedu,
Chennai-94.
 3. The Executive Engineer,
Chennai Corporation
Zone-09, No.01, Lake Area, 4th Street,
Nungambakkam, Chennai-34.
- +1 CC to Mr.A. Nagarajan, Advocate sr 92626.
+1 CC to Govt. Pleader sr 92661.
+1 CC to Mr.S.C. Vishwanth, Advocate sr 92641.

WP.No.34093 of 2017&
WMP.No.37846 of 2017

SP(10/01/2018)

सत्यमेव जयते

WEB COPY