

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.01.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P. No.31713 of 2017

R.Rudhrapathi

.. Petitioner

Vs.

1.Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai-600 003.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned rejection order of the first respondent in Letter No.REG.III/B6/2873/2001 dated 09.11.2017 and to quash the same and direct the first respondent to pass under Section 113-A of the Tamil Nadu Town and Country Planning Act, after affording opportunity to the petitioner, since the construction has been made prior to 28.02.1999.

For Petitioner : Mr.M.Balasubramanian
For Respondents : Mr.M.Karthikeyan
Standing counsel for R-1

Mr.T.C.Gopalakrishnan
Standing Counsel for R-2

O R D E R

The application of the petitioner for regularization of the building plan was rejected by the first respondent on the ground that the petitioner has not furnished necessary documents and the petitioner did not satisfy the conditions prescribed by the High Court.

2. Heard Mr.M.Balasubramanian, learned counsel appearing for the petitioner; Mr.M.Karthikeyan, learned Standing Standing Counsel appearing for the first respondent and Mr.T.C.Gopalakrishnan, learned Standing Counsel appearing for the second respondent and perused the materials placed on record.

3. It is the case of the petitioner that one

P.R.Sundra Mudaliar obtained planning permission from the Corporation of Madras on 28.11.1947 and constructed the ground floor building. The said P.R.Sundara Mudaliar sold the superstructure to one P.R.Kanniappa Mudaliar by a registered sale deed dated 12.09.1948. One S.G.Ganapathy purchased the superstructure vide sale deed dated 26.06.1950 and thereafter on 02.02.1952, the petitioner's father K.V.Ramasami Iyer became the owner vide document No.149 of 1952 on the file of Sub Registrars Office, Mylapore.

4. The further case of the petitioner is that the petitioner constructed first and second floor during 1998-1999 and the property was assessed to property tax by the Corporation on 19.01.1999. The petitioner performed house warming ceremony on 24.01.1999 and he applied for regularization of the building on 29.12.2000. However, by citing the order passed in 2006 (4) CTC 483, the first respondent rejected the application. Hence, the present Writ Petition.

5. Mr.M.Balasubramanian, learned counsel for the petitioner submitted that the Division Bench of this Court in 2006 (4) CTC 483 has categorically stated that the applications for regularization of the buildings constructed prior to 28.02.1999 may be regularized, provided an application for regularization have been preferred before the extended date i.e., 30.06.2002. According to the learned counsel for the petitioner, the petitioner had already constructed the building in the year 1991 and the application was filed prior to the cut off date i.e., 30.06.2002, but the respondents, without affording an opportunity, has rejected the application.

6. Per contra learned Standing counsel appearing for the respondents submitted that the first respondent passed the impugned order since the petitioner did not furnish the proof for completion of building before the cut off date.

7. In the instant case, it is the specific case of the petitioner that the construction of first and second floor of the building was already completed on 19.01.1999 and the property was assessed to property tax by the respondent-Corporation from the year 1999. A perusal of the typed-set of paper shows that the petitioner has made payment for regularization of the building on 29.12.2000.

8. The main grievance of the petitioner is that the impugned order came to be passed without affording an opportunity to the petitioner and in violation of the principles of natural justice. After perusing the annexures in the typed-set of papers, this Court is prima-facie satisfied that the application of the petitioner for regularization of the building was made before the cut off date, but the first respondent

rejected the application stating that the petitioner has not produced required documents.

9. In the light of the above facts and taking note of the grievance of the petitioner, the impugned order of the first respondent dated 09.11.2017 is set-aside and the matter is remanded back to the first respondent, who shall pass order afresh after affording an opportunity to the petitioner.

10. With the above observations, the Writ Petition is allowed. There is no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai-600 003.

+1 cc to M/s.T.C.Gopalakrishnan Advocate sr 286
+1 cc to M/s.M.Balasubramanian Advocate sr 255
+1 cc to M/s.M.Karthikeyan Advocate sr 509

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