

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

CORAM :

THE HONOURABLE MS.JUSTICE K. KALYANASUNDARAM

W.P.No.15019 of 2017

P.Krishnan

... Petitioner

Vs.

- 1.The Chief Metropolitan Development Authority (CMDA),
represented by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore,
Chennai 600 008.
2. The Tamil Nadu Housing Board,
represented by its Managing Director,
Anna Salai, Nandanam,
Chennai 600 035.
3. The Executive Engineer and
Administrative Officer,
Tamilnadu Housing Board,
Anna Nagar Division,
Thirumangalam Shopping Complex,
Thirumangalam,
Chennai 600 101.
4. Colonel K. Malaiappan (Retd),
5. N.K.M.V.C.P.Rao,

.. Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India paying for issuance of a Writ of Mandamus, directing the 1st respondent to grant approval to the application dated 25.7.2016 submitted by the builder-cum-power agent of the petitioner for obtaining planning permission for the revised drawing based on the new combined orientation sketch for the construction of stilt + 4 floors of residential building at Block No.382 and 383, Green Gardens, 1st Avenue, New Avadi Road, Anna Nagar, Chennai 600 102, without insisting for blockwise orientation sketch from the 3rd respondent, within a reasonable time as may be prescribed by this Court.

For Petitioner : Mr. R. Parthasarathy

For Respondents : Mr. K.Raja Shrinivas for R1

Mr.V.Anandha Murthy
Standing counsel R2 and R3

Mr.R.Arumugam for R4
Mr.N.K.M.V.C.P.Rao,

Party-in-person for R5

ORDER

Heard Mr. R. Parthasarathy, learned counsel appearing for the petitioner and Mr. K.Raja Shrinivas, learned Standing Counsel appearing for 1st respondent, Mr.V. Anandha Murthy, learned Standing counsel appearing for respondents 2 and 3, Mr.R.Arumugam appearing for 4th respondent and Mr.N.K.M.V.C.P.Rao - 5th respondent appearing as Party-in-person at length.

2. This Writ Petition has been filed seeking a direction to the 1st respondent to grant approval to the application dated 27.5.2016 submitted by the builder-cum-Power Agent of the petitioner for obtaining planning permission for the revised drawing based on the new combined orientation sketch for the construction of stilt + 4 floors of residential building at block No.382 and 383, Green Gardens, 1st Avenue, New Avadi Road, Anna Nagar, Chennai 600 102, without insisting for blockwise orientation sketch from the 3rd respondent within a reasonable time as may be prescribed by this Court.

3. According to the petitioner, the Tamilnadu Housing Board, the 2nd respondent had constructed 108 flats in 18 blocks during the year 1985. He along with his wife, purchased Flat No.4 in Block No.383, measuring 917 sq.ft. by a registered document. Since then they were in possession of the property. The area is known as "Green Garden". The owners of the apartments have formed an Association called Green Gardens Association. Since the apartment building became dilapidated, it was decided by the Association to put up a new construction after demolishing the existing construction in their General Body Meeting. Pursuant to which, the petitioner along with the owners of Block No.382 and 383 entered into a Development Agreement dated 18.12.2010 with a builder and executed a General Power of Attorney in favour of builder for demotion and construction of new flats. As requested by them, the 3rd respondent issued orientation sketch for Block No.382 and 383

vide its letter dated 8.7.2009. Thereafter the whole structure was demolished and a new structure was now in progress after obtaining planning permission and building permission from CMDA and Corporation of Chennai by order dated 24.10.2013.

4. While the construction was in the stage of second floor, the 3rd respondent suddenly cancelled the same vide their letter dated 1.10.2014, in pursuance of which, a writ petition in W.P.No.56 of 2014 was filed and the same was allowed by quashing cancellation with a direction to the 3rd respondent to pass order afresh after hearing necessary parties and decide the matter on merits. Thereafter, based on resolutions passed by the Green Garden Association, the 3rd respondent prepared a combined orientation sketch for 18 blocks consisting of 108 flats and communicated the same to the Association vide its letter dated 3.3.2016.

5. At the same time, it rejected the request of the Association to provide block wise orientation sketch for each block. After issuance of no objection certificate by Green Garden Association and taking into account the subsequent developments, the petitioner's builder, vide their application dated 25.7.2016 applied for obtaining planning permission for the revised drawing as per the new combined orientation sketch for construction, but till date, the planning permission for the revised drawing has not been granted by the 1st respondent and the same has been kept still pending without any reason therefor. Hence the petitioner has approached this Court by way of filing this Writ Petition.

6. Learned counsel for the petitioner would submit that the petitioner along with other owners of the block Nos.382 and 383 have vacated in the year 2011 and the old structure was demolished in 2012 and the new structure was completed only up to the level of 2nd floor by investing more than Rs.8 crores and due to the cancellation of orientation sketch in the year 2014, the entire work came to a stand still.

7. The learned counsel for the petitioner has elaborately made his submissions by referring the orders passed by the authorities. On the other hand, the learned counsel for the fourth and fifth respondents have argued disputing the claim of the petitioner.

8. The learned counsel for the 1st respondent would state that the application for the planning permission submitted by the petitioner was returned.

9. The learned counsel for the petitioner would submit that the application for planning permission for the

revised drawing was re-submitted on 22.3.2018. He would further submit that it would suffice, if a suitable direction is issued to the 1st respondent to pass appropriate orders on the application of the petitioner in accordance with law.

10. The learned Standing Counsel for the first respondent submitted that the first respondent is ready to pass orders on the application of the petitioner in accordance with law.

11. In the light of the aforesaid submissions, this Court, without going into the merits of the case, directs the 1st respondent/ CMDA to pass orders on the application of the petitioner, purely on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order after affording an opportunity of personal hearing to all the necessary parties.

12. With the above observation, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

msr

To

1.The Chief Metropolitan Development Authority (CMDA),
represented by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore,
Chennai 600 008.

2. The Tamil Nadu Housing Board,
represented by its Managing Director,
Anna Salai, Nandanam,
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3. The Executive Engineer and
Administrative Officer,
Tamilnadu Housing Board,
Anna Nagar Division,
Thirumangalam Shopping Complex,
Thirumangalam,
Chennai 600 101.

+1cc to Mr.NKMVC.Ram, Advocate, S.R.No.27575

+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.27435

+1cc to Mr.R.Arumugam, Advocate, S.R.No.27426

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.27142

+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.27072

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RRK (28/04/2018)



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