

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE Mrs.JUSTICE S.RAMATHILAGAM

W.P.No.23265 of 2018

1. V.Kamalakannan
2. K.Mahalakshmi

...Petitioners

vs.

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Park Town,
Chennai
3. The Executive Engineer,
Zone 12 (Alandur)
Greater Chennai Corporation,
No.1, New Street, Alandur,
Chennai - 16.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st Respondent to pass orders on the Petitioners' Appeal dated 30.10.2017.

For Petitioners : Mr.N.A.Nissar Ahmed
For Respondents : Mr.J.Pothiraj for R1
Special Government Pleader
Mr.Nagarajan for R2 and R3

O R D E R

(Order of the Court was made by M.VENUGOPAL,J.)

Heard both sides. No counter is filed on behalf of the Respondents.

2. According to the Petitioners, originally, the large extent of property in Vanuvampet Village, Gandhi Street, Alandur Taluk, Kanchipuram District comprised in S.No.264/13 belonged to one Gunabooshanammal by virtue of registered Sale Deed dated 07.04.1949 bearing Document No.572/49. After the demise of Gunabooshanammal, the property devolved on her legal heirs. Her legal heirs had sold certain extent to 3rd Parties and retained 5907 Sq.ft., (549.Sq.M). In fact, the Highways of the State Government acquired 5629.57 Sq.ft., [523 Sq.M.) out of the aforesaid extent, and an Award No.3 of 2008 dated 20.11.2008 was passed.

3. As a matter of fact, the Petitioners had purchased the Plot in Vanuvampettai, Adambakkam, Kancheepuram District to an extent of 277.43 sq.ft., which remained with the legal representatives of Gunabooshanammal, by means of a registered Sale Deed dated 05.10.2012 and as such, they are the owners of the property and they are in possession of the same. They had applied for Planning Permission and since the site was below 800 sq.ft., the permission could not be granted. The 3rd Respondent / Executive Engineer, Zone 12 (Alandur) Greater Chennai Corporation, Chennai - 16 had issued a Stop Work Notice dated 28.03.2013 and the proceedings under Section 57(4) of the Tamilnadu Town and Country Planning Act, 1971 was initiated. The Petitioners preferred an Appeal under Section 80-A of the Act, 1971. The 1st Respondent / Secretary to Government, Housing and Urban Development Department, Chennai had directed the Petitioners to submit a Planning Permission by means of an Order dated 13.06.2016. Pursuant to the direction issued, the Petitioners submitted a Planning Permission on 25.11.2016 before the 3rd Respondent.

3. The version of the Petitioner is that the 3rd Respondent / Executive Engineer, Zone 12 of Greater Chennai Corporation, Chennai had rejected the Application of the Petitioner by means of an order dated 30.11.2016 [vide reference no.Z.O.XII/Dn.No.165/11/2016 dated 30.11.2016] and as against the said order, the Petitioners had preferred an Appeal on 30.10.2017 along with the 'Condonation Delay Petition and Interim Relief Petition'. In fact, the 1st Respondent, till date, has not passed any orders in the pending Appeal.

4. Considering the fact that the Petitioners' Appeal dated 30.10.2017 is pending on the file of the 1st Respondent together with Condonation Delay Petition and Interim Relief Petition, etc., at this stage, this Court, simpliciter directs the 1st Respondent / The Commissioner, Greater Chennai Corporation,

Rippon Building, Park Town, Chennai to dispose of the Condonation Delay Petition, the Appeal Petition and the Interim Relief Petition, preferred by the Petitioner within a period of six weeks from the date of a receipt of copy of this order. It cannot be gainsaid that the 1st Respondent shall provide an opportunity of hearing to the Petitioners and others concerned by putting them on notice and after hearing their views, is to pass necessary orders in the pending Appeal within the time adumbrated by this Court. It is open to the Petitioners to raise all factual and legal pleas before the 1st Respondent, who shall take into account of the same, advert to it, in the final orders to be passed by him in Appeal.

With the aforesaid observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

ssd
To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Park Town,
Chennai
3. The Executive Engineer,
Zone 12 (Alandur)
Greater Chennai Corporation,
No.1, New Street, Alandur,
Chennai - 16.

+1cc to Mr.N.A.Nissar Ahamed, Advocate, sr.no.61907
+1cc to The Government Pleader, sr.no.62108

W.P.No.23265 of 2018

KJI (CO)
RMP (26/09/2018)