

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 25.06.2018  
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15394 of 2018

Vijaya & Bhaghiya Lakshmi Estates Pvt. Ltd.,  
Aj 42, Anna Nagar,  
Chennai-600 040.  
Rep. By its Managing Director.

... Petitioner

Vs.

1.Govt. of Tamil Nadu,  
Department of Housing and Urban Development,  
Secretariat, Fort St.George,  
Chennai-600 009,  
Represented by its Secretary.

2.Chennai Metropolitan Development Authority,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008,  
Represented by its Managing Director.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1<sup>st</sup> respondent to dispose of the appeal filed by the petitioner dated 06.03.2008 under Section 79 of Town and Country Planning Act, 1971 within a time frame fixed by this Court.

For Petitioner : Mr.Niranjan Rajagopalan  
M/s.G.R.Associates

For Respondents : Mr.R.Udhayakumar,  
Additional Govt. Pleader for R1

Mrs.Veena Suresh,  
Standing Counsel for R2

O R D E R

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

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner is a Private Limited Company and the Managing Director of the said Company, who has sworn to the affidavit, would aver among other things that it is a Real Estate construction company and they developed one project in Konnur High Road after obtaining necessary planning permission from the second respondent for the purpose of constructing an apartment in S.No.183, Block No.25, Ayanavaram Village, Door No.354, Konnur Road, Ayanavaram, Chennai-23 and due to delay in construction, the planning permission got expired and had to be renewed thrice and in the interregnum, the Floor Space Index being reduced from 1.99 to 1.50. It is further averred by the petitioner that they have also been issued with a communication dated 11.02.2008, by the second respondent pointing out certain deviations and immediately, they submitted an appeal dated 06.03.2008 under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971, praying for regularization of the Ground + Three Floors, comprising of residential cum office building in the said premises. The petitioner also received a communication dated 05.09.2008, vide Letter No.5754/UDVI/2007-2, Housing and Urban Development Department, Secretariat, Chennai-9, stating that the planning permission sought shall not be issued and before passing orders on the appeal petition, an opportunity would be given to make further representation against the Development Control Rules violations pointed out therein, for which a reply/representation dated 25.09.2008 has been submitted by the petitioner to the first respondent and a reminder was also sent on 16.02.2018 pointing out that the appeal is pending for the past ten years without passing any orders and therefore, the petitioner has been constrained to approach this Court by filing this writ petition.

3. Mr.Niranjana Rajagopalan learned counsel appearing for the petitioner would submit that it would be suffice to direct the first respondent to consider and dispose of the appeal filed by the petitioner on merits and in accordance with law within a stipulated time.

4. Mr.R.Udhaya Kumar, learned Additional Government Pleader, who accepts notice on behalf of the first respondent, would submit that the appeal filed by the petitioner is still pending and priority will be accorded for early disposal of the same.

5. Mrs.Veena Suresh, learned Standing Counsel who accepts notice on behalf of the second respondent would submit that an inspection may also be directed to be caused to find out as to whether any extra/additional construction has been put up the petitioner or not.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in the appeal petition or in this writ petition, directs the first respondent to consider and dispose of the appeal filed by the petitioner dated 06.03.2008 on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and in the interregnum, the second respondent shall put the petitioner on notice and cause inspection as to whether any additional construction or unauthorized development has been done and depending upon the result of the same, shall initiate appropriate action in accordance with law within a stipulated time frame.

8. This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary,  
Govt. of Tamil Nadu, सतयमेव जयते  
Department of Housing and Urban Development,  
Secretariat, Fort St.George, Chennai-600 009.

2.The Managing Director,  
Chennai Metropolitan Development Authority,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

+lcc to Mr.GR.Associates, Advocate, S.R.No.40030

+lcc to the Government Pleader, S.R.No.41466

W.P.No.15394 of 2018

GSP(02/07/2018)