

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.31963 of 2018

and

WMP.No.37202 & 37203/2018

K.Vinoth Kumar

.. Petitioner

-vs-

1.The Secretary to Government,
rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.

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

3.The Executive Engineer,
Greater Chennai Corporation,
Zone-XIII, Adyar,
Chennai-600 020.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records relating to the orders of the first respondent made in Letter No.26801/UD-VII(2)/2017-4 dated 16.10.2017 and that of Letter No.836/UD-7(2)/2018-1 dated 25.10.2018, to quash the same and to consequently direct the respondents to consider the regularization application as per law and on merits.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.V.Jayaprakash Narayanan
Government Pleader (i/c)
for respondent No.1
Mr.Karthik Rajan
for respondent No.2
Mr.V.C.Selvasekaran
for respondent No.3

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has preferred this writ petition being aggrieved by the order dated 25.10.2018 passed by the first respondent - the Secretary, Housing and Urban Development Department, Fort St. George, Chennai-9 in the review petition preferred by him and also the order dated 16.10.2017 passed by the first respondent in an appeal preferred under Section 80-A of the Tamil Nadu Town and Country Planning Act.

2. It is admitted by the petitioner that review petition under Section 81 of the Tamil Nadu Town and Country Planning Act, 1971 has been preferred in the order passed in the appeal preferred by the petitioner under Section 80-A of the said Act.

3. Section 81 of the said Act states that a person may apply for the review of any order passed under Sections 76 to 78 and 80. Thus, it is clear that review petition cannot be filed in relation to an order passed in an appeal under Section 80-A of the said Act.

4. In the impugned order dated 25.10.2018, it is clearly stated that review of the orders passed under Section 80-A is not maintainable. Thus, we do not find any error in the order dated 25.10.2018 passed by the first respondent.

5. The learned counsel for the petitioner submitted that the petitioner has also challenged the order dated 16.10.2017 passed under Section 80-A of the said Act in an appeal preferred against the locking and sealing notice.

6. The learned Government Pleader (i/c) states that the petitioner is an encroacher on the said land and hence, he is not entitled to any relief.

7. In the order dated 16.10.2017, it is clearly reflected

that the appellant has not furnished any valid evidence to show that he can occupy the land and construct houses. Therefore, it has to be concluded that the petitioner has encroached the said land. Admittedly, the petitioner had not furnished any document at the time when his appeal under Section 80-A was being heard and decided. Thus, we do not find any reason to interfere with the order dated 16.10.2017, whereby the petitioner's appeal filed under Section 80-A of the said Act came to be dismissed. That apart the petitioner has challenged the order dated 16.10.2017 passed by the first respondent under Section 80-A of the Act after a lapse of more than a year. The petitioner has not given any reason for not challenging the said order at the earliest point of time.

8. In view of the above facts, no case is made out for interference. The writ petition is dismissed. No costs. Consequently, W.M.P.Nos.37202 and 37203 of 2018 are close

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr

To

- 1.The Secretary to Government,
rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.
- 2.The Principal Secretary/Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
- 3.The Executive Engineer,
Greater Chennai Corporation,
Zone-XIII, Adyar,
Chennai-600 020.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.84101

+1cc to Mr.Karthik Rajan, Advocate, S.R.No.84305

W.P.No.31963 of 2018

JP(CO)

GSP(19/12/2018)