

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2019

CORAM:

THE HONOURABLE Mr. JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE Mr. JUSTICE KRISHNAN RAMASAMY

WP. No.14509 of 2019
and
WMP. No.14517 of 2019

The Madras SPCA
rep. by its President/The Hony. Secretary,
T.Thiyagarajan,
No.67, Old No.34,
Vepery High Road,
Vepery,
Chennai-600 007.

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Petitioner

-Vs-

- 1.The Secretary to Government,
Housing and Urban Development Department,
Fort. St. George, Chennai 600 009.
- 2.The Member - Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.
- 3.The Commissioner,
Corporation of Chennai,
Zonal Office - V,
Rippon Building,
Chennai - 600 003.
- 4.The Executive Engineer TP (N),
Town Planning (Enforcement),
Corporation of Chennai,
Zone -5, Division -58,
Chennai - 600 007.

5.The Executive Engineer,
Greater Chennai Corporation,
Zone-5, No.62, Basin Bridge Road,
Old Washermenpet, Chennai - 600 021.

6.The Junior Engineer,
Corporation of Chennai,
Division -58, Chennai - 600 007

7.The Assistant Executive Engineer,
Corporation of Chennai,
Unit -14, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the appeal filed by the petitioner association on 17.12.2018 under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 seeking to sanction the revised plan under section 113(c) of the Tamil Nadu Town and Country Planning Act, 1971, in view of the application of the petitioner association dated 10.12.2018 and to de-seal the building situate at Door No.67 Old No.34 and bearing Door No.69/1, Old No.35 Veperiy High Road, Veperiy, Chennai - 600 007 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.C.Prabakaran

For Respondents: Mr.V.Kadhivelu
Special Government Pleader
for R1 & R2
Mr.G.Anandtharangan for R3 to R7

ORDER

[Order of the Court was made by C.V.KARTHIKEYAN, J]

The present Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the appeal filed by the petitioner Association on 17.12.2018 under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, seeking to sanction the revised plan under section 113(c) of the Tamil Nadu Town and Country Planning Act, 1971, based on the application of the petitioner association dated 10.12.2018 and to de-seal the building situated at Door No.67 Old No.34 and bearing Door No.69/1, Old No.35 Veperiy High Road, Veperiy, Chennai - 600 007 within a time stipulated by this Court.

2. The petitioner is a Society. It owns a land comprised in Survey No.69/1 and 67/34 situate at New No.67, Old No.34,

Vepery High Road, Vepery, Chennai-7. They had obtained necessary planning permission from the 4th respondent herein on 25.02.2008 and 27.03.2008 for putting up construction and accordingly, put up the construction. But, there was a deviation in the construction from the planning permission granted. Consequently, the 5th respondent has issued a Notice dated 23.11.2017 to lock and seal the petitioner's premises. This was followed by a de-occupation Notice dated 29.01.2018. Therefore, the petitioner Society have preferred an appeal before the 1st respondent on 20.03.2018 against the order of lock and seal and prayed for desealing the premises enabling the petitioner to make necessary changes and modification for the compliance of planning permission. Thereafter, the 1st respondent issued notices dated 11.6.2018 and 21.8.2018 respectively calling upon the petitioner to appear for enquiry and an enquiry was conducted in which the petitioner has also participated.

3. While so, the petitioner has also made an application to the 2nd respondent with necessary charges seeking to regularise the unauthorised construction under the Building Regularisation Scheme, 2017 and under Section 113-C of the Town and Country Planning Act, 1971, but, there is no response for the same. Therefore, in view of the inaction on the part of the Chennai Metropolitan Development Authority and the Corporation of Chennai, the petitioner has also filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act on 17.12.2018 seeking to direct the 2nd respondent to process the revised plan and application of the petitioner. Now the grievance of the petitioner is that no action has been taken to dispose of the appeal which is pending before the 1st respondent, who is the competent authority. Hence, the present Writ Petition has been filed.

4. Mr.V.Kadhirvelu, learned Special Government Pleader takes notice for the respondents 1 and 2 and Mr.G.Anantharangan, learned Standing Counsel takes notice for the respondents 3 to 7.

5. Learned Special Government Pleader appearing for the 1st respondent states that the 1st respondent shall take all necessary steps to dispose of the appeal on merits within a time stipulated by this Court.

6. Recording the said statement of the learned Special Government Pleader appearing for the 1st respondent, without expressing any opinion on the merits of the appeal filed by the petitioner, we hereby direct the 1st respondent to dispose of the appeal of the petitioner dated 17.12.2018 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this Order.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (VO)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr.C.Prabakaran, Advocate sr 43919.

W.P. No.14509 of 2019

RSV(CO)
SP(28/05/2019)