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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.12.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.26532 of 2021
and W.M.P.No.27986 of 2021

A.Sebastian

... Petitioner

-vs-

1.The State of Tamilnadu rep.by
its Secretary to Government
Housing and Urban Development Department
Secretariat
Chennai - 600 006.

2.The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai - 600 003.

3.The Executive Engineer-II
Greater Chennai Corporation
Zone 13 Dr.Muthukrishnan Road
Chennai - 600 020.

4.Chennai Metropolitan Development Authority
Rep. By its Member Secretary
Chennai - 600 008.

5.D.Robinson

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice in Div.174/001/2020 dated 09.01.2020 issued by the 3rd respondent, which has been confirmed in Lr.No.712/UD-VI(2)/2021-4 dated 29.10.2021 passed by the 1st respondent, quash the same and consequently direct the respondents 1 to 4 to defer the enforcement action pending consideration of my application for regularisation dated 24.01.2021 filed under Section 113 (c) of the Tamilnadu Town and Country Planning Act, 1971.



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For petitioner : Mr.N.Manokaran

For respondents: Mr.K.V.Sajeev Kumar
Special Government Pleader
for R1
Mr.K.Raja Srinivas
Senior Standing Counsel
for RR2 & 3
Mrs.C.Sumathy Sreekanth,
Standing Counsel for R4

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

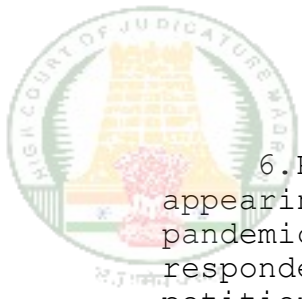
This writ petition has been filed for issuance of writ of certiorarified mandamus, to quash the order of the 3rd respondent dated 09.01.2020 in Div.174/001/2020 and the order of the 1st respondent in letter No.712/UD-VI(2)/2021-4 dated 29.10.2021, consequently direct the respondents 1 to 4 to defer the enforcement action, till the application of the petitioner dated 24.01.2021 for regularization is considered.

2.We have heard Mr.N.Manokaran, learned counsel for the petitioner; Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the 1st respondent; Mr.K.Raja Srinivas, learned Senior Standing Counsel appearing for the respondents 2 and 3 as well as Mrs.C.Sumathy Sreekanth, learned Standing Counsel appearing for the 4th respondent.

3.Assailing the lock and seal notice of the 3rd respondent dated 09.01.2020, issued under Sections 56 and 57 read with Section 85 of the Town and Country Planning Act, 1971 (herein after referred to as "the act"), the petitioner has preferred a special revision under Section 80A of the act and the same was rejected by the 1st respondent.

4.The grievance of the petitioner is that he was not provided with an opportunity of hearing, while rejecting the special revision.

5.The learned counsel for the petitioner would state that the petitioner is a senior citizen, aged about 68 years and he is not conversant with the virtual hearing and hence, the petitioner could not appear for hearing fixed on 25.02.2021 and 15.09.2021. According to the learned counsel, the order impugned in this writ petition has been passed in violation of the principles of natural justice.



6.Per contra, the learned Special Government Pleader appearing for the 1st respondent would state that due to Covid-19 pandemic and subsequent imposition of lock down, the 1st respondent has listed the special revision filed by the petitioner on two occasions, i.e., on 25.02.2021 and 15.09.2021. Despite prior intimations, the petitioner failed to represent his case.

7.We have heard the submissions of the learned counsel appearing on either side and perused the materials available on record.

8.It is not in dispute that the petitioner has filed the special revision under Section 80A of the act, against the lock and seal notice issued by the 3rd respondent. Further, the special revision was taken up for hearing through virtual mode, but the petitioner did not attend the hearing on two occasions. Considering the submissions made by the learned counsel for the petitioner that the petitioner is a senior citizen and he was not in a position to appear through virtual hearing, in order to give adequate opportunity, we hereby set aside the order in Lr.No.712/UD-VI(2)/2021-4 dated 29.10.2021 passed by the 1st respondent and remand the matter back for fresh consideration. The 1st respondent after providing an opportunity of personal hearing to all the necessary parties, shall pass orders on merits and in accordance with law. It is needless to mention that the petitioner should appear for the hearing to be intimated by the 1st respondent.

9.Accordingly, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
State of Tamilnadu
Housing and Urban Development Department
Secretariat
Chennai - 600 006.



2.The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai - 600 003.

3.The Executive Engineer-II
Greater Chennai Corporation
Zone 13 Dr.Muthukrishnan Road
Chennai - 600 020.

4.The Member Secretary
Chennai Metropolitan Development Authority
Chennai - 600 008.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.68532

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PL(CO)
CB(01/02/2022)