



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.9095 of 2022 and W.M.P. No.8886 of 2022

V.C.Thangamagan

... Petitioner

vs

- 1.The Government of Tamil Nadu,
rep. by its Additional Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai - 600 008.
- 3.The Principal Secretary/Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
- 4.The Executive Engineer,
Zone-10, Greater Chennai Corporation,
No.64, NSK Salai,
Kamarajar colony,
Kodambakkam,
Chennai-600 024.
- 5.The Assistant Executive Engineer,
Unit-31, Greater Chennai Corporation,
Chennai.
- 6.The Assistant Engineer,
Division-133, Greater Chennai Corporation,
Chennai.
- 7.Shanmugam

... Respondents



Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the impugned order dated 23.03.2022 passed by the first respondent bearing Letter No.358/UD-VI(2)/2021-6 and quash the same and consequently direct the respondents 4 to 6 to pass orders on the application dated 22.07.2019 submitted by the petitioner u/s.56(3) r/w. s.49 of the Tamil Nadu Town and Country Planning Act within a time frame as may be fixed by this Court.

For Petitioner :Mr.AR.L.Sundaresan,
Senior Counsel for
Mr.AR.Karthik Lakshmanan

For Respondents :Mr.K.V.Sajeev Kumar,
Special Government Pleader for R1

Mrs.P.Veena Suresh,
Standing Counsel (CMDA) for R2

Mr.K.Raja Shrinivas,
Standing Counsel (Corporation)
for R3 to R6

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court, challenging the impugned order dated 23.03.2022 passed by the Additional Secretary to Government, Housing and Urban Development Department, Chennai, the first respondent herein in Letter No.358/UD-VI(2)/2021-6 and seeking a direction to respondents 4 to 6 to pass orders on his application dated 22.07.2019 submitted u/s.56(3) r/w. s.49 of the Tamil Nadu Town and Country Planning Act within a time frame as may be fixed by this Court.

2.Mr.AR.L.Sundaresan, learned Senior Counsel appearing for Mr.AR.Karthik Lakshmanan, learned counsel for the petitioner, assailing the reasoning given in the impugned order, argued that the first respondent has erroneously rejected the Appeal filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act on the ground that the building in question does not have any approved building plan, without considering the fact that the petitioner has already applied for building plan approval under Section 56(3) read with Section 49 of the above Act on 22.07.2019. Moreover, ignoring the application filed for seeking planning permission, passing order on the application filed under Section 80-A reflects non application of mind. When



the said order refusing the planning permission was passed, the same also does not speak any reason. Therefore, the petitioner may be given permission to take out a fresh application seeking planning permission as per law, since he has also put up the construction.

3. Heard the parties and also perused the order dated 08.01.2021 refusing the request of the petitioner to grant planning permission, without assigning any reason therein. Therefore, we are inclined to grant liberty to the petitioner to file a fresh application seeking planning permission under Section 56(3) r/w. Section 49 of the Tamil Nadu Town and Country Planning Act. Accordingly, the petitioner is permitted to file a fresh application seeking planning permission under Section 56(3) r/w. Section 49 of the Tamil Nadu Town and Country Planning Act within a period of one week from the date of receipt of a copy of this order. The fourth respondent is directed to re-consider the same and pass orders, on merits and in accordance with law, within a period of eight weeks thereafter. Needless to mention that the parties shall maintain status quo till then in respect of ground floor. With the above direction and the observation, this writ petition stands disposed of. Consequently, W.M.P. No.8886 of 2022 stands closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

vga

To

1. The Additional Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai - 600 008.
3. The Principal Secretary/Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.



4.The Executive Engineer,
Zone-10, Greater Chennai Corporation,
No.64, NSK Salai,
Kamarajar colony,
Kodambakkam,
Chennai-600 024.

5.The Assistant Executive Engineer,
Unit-31, Greater Chennai Corporation,
Chennai.

6.The Assistant Engineer,
Division-133, Greater Chennai Corporation,
Chennai.

+1cc to M/s.A.L.Ganthimathi, Advocate SR.No.26128
+1cc to Ms.P.Veena Suresh, Advocate SR.No.25612
+1cc to Mr.K.Raja Srinivas, Advocate SR.No.25694
+1cc to the Government Pleader, SR.No.26176

W.P.No.9095 of 2022 and W.M.P. No.8886 of 2022

EV(CO)
CB(02/05/2022)