



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.05.2022

CORAM

THE HON'BLE MR. JUSTICE G.R.SWAMINATHAN
AND
THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.11067 of 2022
and
W.M.P.No.10656 of 2022

Mr.T.Pushparaj,
S/o.Thomas.

...Petitioner

Vs

1. The Principal Secretary to Department of Housing,
and Urban Development,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

2. The Commissioner,
Corporation of Chennai,
Ribon Building,
Chennai 600 003.

3. The Executive Engineer,
Corporation of Chennai,
Zone-03,
No.1, Thattankulam Street,
Madhavaram,
Chennai 600 060.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records of the first respondent in letter of like nature calling for the records of the first respondent in letter No.11071/UD-5(1)/2021-3 dated 25.03.2022 and quash the same.

For Petitioner : Mr.V.John Acquinasi

For Respondents: Mr.D.Ravichander,
Special Government Pleader [R1]
Ms.S.Vaitheeswari,
Standing counsel (Corporation)
[R2 and R3]



O R D E R
[Made by G.R.SWAMINATHAN, J]

Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader for the first respondent and the learned Standing Counsel for respondents 2 and 3.

2. The petitioner is said to have put up an unauthorised construction. He received notice for lock and seal. Questioning the same, the petitioner filed an appeal before the first respondent. Instead of filing an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, the appeal was filed under Section 79 of the said Act. In the very nature of things, an opportunity of hearing should have been given to the petitioner. The enquiry date was fixed on 24.02.2022 and the enquiry was to take place through Video Conferencing. Notice dated 17.02.2022 was sent to the petitioner by RPAD on 22.02.2022. It was received by the petitioner after the enquiry date, 26.02.2022. Thus, even without hearing the petitioner, the appeal came to be rejected. The rejection is primarily on two grounds: (a) wrong quoting of the legal provision; and (b) the petitioner did not respond to the enquiry notice. The rejection order was passed on 25.03.2022. This rejection order has put to challenge before us.

3. After hearing the learned counsel on either side, we are more than satisfied that this matter has to be remanded for fresh consideration. Both the reasons assigned by the first respondent are unsustainable. Misquoting or wrong quoting of legal provision cannot be a ground for not considering the matter on merits. We are satisfied that the enquiry notice was received by the petitioner after the scheduled date was already over. Thus, there is violation of principle of natural justice.

The order impugned in this writ petition is set aside and the writ petition is allowed. The matter is remanded to the first respondent for fresh consideration. The first respondent shall issue fresh notice to the petitioner and decide the matter on merits in accordance with law. There shall be no order as to costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar/
Vacation Officer

//True Copy//

Sub Assistant Registrar

gm/nsa



To

1. The Principal Secretary to Department of Housing,
and Urban Development,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

2. The Commissioner,
Corporation of Chennai,
Ribon Building,
Chennai 600 003.

3. The Executive Engineer,
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Zone-03, No.1, Thattankulam Street,
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Chennai 600 060.

+1cc to M/s.V.John Acquinasi, Advocate, S.R.No.31385

+1cc to the Government Pleader, S.R.No.31501

Writ Petition No.11067 of 2022

SSN(CO)
RGA(20/05/2022)