
(2017) 12 MAD CK 0002

In the Madras High Court

Case No : 21239, 28140 to 28142, 35441 and 35442 of 2005 and 10364 of 2006 and W P M P No 11709 of 2006

B.Ramesh

APPELLANT

Vs

The Secretary to Government & Ors

RESPONDENT

Date of Decision : 18-12-2017

Acts Referred:

[Tamil Nadu Town and Country Planning Act, 1971](#), [Section 113-C](#)

Citation : (2017) 12 MAD CK 0002

Hon'ble Judges : S.Vaidyanathan

Bench : SINGLE BENCH

Advocate : S.Vaidyanathan

Final Decision : Dismissed

Judgement

1. The petitioners have come forward with these Writ Petitions challenging the respective G.Os., rejecting the appeals filed by the petitioners on

the ground that the registration of documents was actually made only on 12.07.2002 / 16.07.2002, i.e. after the cut-off date of 31.03.2002. In

these Writ Petitions, the petitioners also pray for a direction to the respondents to consider regularisation of the petitioners' lands by taking the

date of execution after registration, as the date of documents.

2. Since the issue involved in these Writ Petition is common, they are disposed of by this common order.

3. According to the petitioners, the settlement deeds were registered on 16.07.2002 / 12.07.2002, even though there was a decision to execute

the said deeds earlier. The respondents rejected the request of the petitioners for regularisation of their lands, on the ground that the registration has

not taken place before 31.03.2002, which is the cut-off date fixed and hence the petitioners are not entitled to the relief. According to the

petitioners, the documents have already been made ready as early as in March 2002 and the same had been registered only in July 2002 and

applying the cut-off date as 31.03.2002, is arbitrary and illegal.

4. In response, learned counsel appearing for the CMDA submitted that even though such contention of the petitioners may not be correct, taking

note of the fact that in view of introduction of Section 113-C in the Tamil Nadu Town and Country Planning Act, 1971 and that the new scheme

has been formed, the petitioners can apply before the authority concerned seeking regularisation of the lands. He further submitted that such

regularisation will be applicable, provided there is original plan and the same is applicable only to the lands. That apart, the learned counsel for the

CMDA further submitted that even with regard to the construction, there should be original plan and that the construction should have been made

in accordance with the original plan and if any construction is made without leaving the set-backs and other conditions applicable prescribed under

the Development Control Regulations of the CMDA, the request of the claimants with regard to the regularisation will not be considered.

5. Since the respondents have no objection for considering the request of the petitioners, provided the petitioners fulfill the conditions laid down

under the guidelines/regulations and that if the petitioners make an application under Section 113-C of the said Act, within a period of one month

from the date of receipt of a copy of this order, the same will be considered, as the period prescribed under the new scheme expires on

31.12.2017. Since the petitioners have already approached this Court and the matter is pending before this Court, the request of the petitioners

shall be considered without taking into account the delay in seeking regularisation. This Court makes it clear that depending upon the outcome of

the regularisation issue that has been filed by Mr.V.B.R.Menon, Advocate for the petitioner therein, that is pending before a Division Bench of this

Court, the case of the petitioners may be considered expeditiously, preferably within one month from the date of disposal of the issue that is

pending before the Division Bench as on date.

6. This Court makes it further clear that the regularisation proceedings shall be

conducted by the respondents after hearing necessary parties who are likely to be affected and if there are complainants, they should also be heard. Whenever parties appear, the applicant(s) as well as the complainant(s) shall be heard and the conduct of the proceedings should be written down by the officer concerned who is hearing the matter, and he shall obtain signatures in the proceedings after recording the submissions if any made. It is like summary proceedings. The documents filed by the parties need to be given Exhibit numbers. A copy of the proceedings shall be furnished immediately thereafter to the parties concerned to avoid unnecessary allegation against the officials that the records have been manipulated. The authority concerned shall seek for written submissions from the petitioner(s)/applicant(s)/complainant(s) within a time frame and thereafter, the authority shall pass appropriate orders within thirty days in accordance with law. This Court makes it clear that the authority shall not advise any of the parties with regard to the issue that is being heard and that if there are no set-backs, and if there is violation with regard to the construction, the request of the applicants/petitioners has got to be rejected. It is further made clear that the set-backs shall not be regularised. It is open for the authorities concerned to go and inspect the sites in question and also take photographs and videographs in order to safeguard their interest. It is also open for the parties to submit the photographs and videographs in order to substantiate their respective stand. The party seeking an order under Section 80- A or Section 113-C of the Tamil Nadu Town and Country Planning Act, needs to file an affidavit/statement to the effect that the building is constructed in accordance with the plan and there are set-backs provided as per the plan. If the averment is false based on record or on inspection, the person is deemed to have approached the authority with unclean hands and no indulgence shall be shown to him. Last but not the least, the new 2017 Scheme is applicable only to unapproved layouts and unapproved plots. The cut-off date, if any, fixed earlier needs to be taken into account. As there should be lung space, the Open Space Reserve (OSR) and set-backs cannot be regularised or used for a different purpose.

7. The Chief Secretary to Government (Secretariat, Chennai) is directed to issue necessary instructions to the authorities to conduct summary

proceedings in the manner mentioned above.

8. With the above observations and directions, the Writ Petitions are disposed of. No costs. Consequently, W.P.M.P. is closed.