

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15/7/2015

C O R A M

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.21233 of 2015
and
M.P.Nos.1,1, 2 and 2 of 2015

V. Balakrishnan ... Petitioner

Vs

1. The Government of Tamil Nadu
rep. By its Secretary to Government
Housing & Urban Development Department
Secretariat
Chennai 9.
2. Corporation of Chennai
rep. By its Commissioner
Rippon Building
Chennai 3.
3. The Executive Engineer
Regional Joint Commissioner
South Region (Enforcement)
Corporation of Chennai
No.115, Dr.Muthulakshmi Salai
Adyar
Chennai 600 020.
4. Corporation of Chennai
rep. By its Executive Engineer
Zone 13, No.115 Dr.Muthulakshmi Salai
Adyar
Chennai 600 020.
5. Mrs.Ambika Krishnamurthy
Plot No.9 Aishwarya Garden
6th Street
Swaminatha Nagar
Kottivakkam
Chennai 41.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the first respondent in their Letter No.19588/UD-VI (2)/2014 - 4 dated 29/1/2015 relating to rejection of Appeal under Section 80 (A) of the Town and Country Planning Act, 1971 pertaining to the premises at Door No.45, 3rd Seaward Road, Thiruvannamiyur, Chennai 41 and quash the same and direct the respondents 2 to 4 to forbear them from in anyway interfering with the above said premises particularly by way of Locking and Sealing or demolition.

For petitioner ... Mr.R.Raj Mohan

For respondents ... Mr.P.S.Sivashanmugasundaram
Special Government Pleader
for R.1.
Mr.A.Nagarajan
for R.R.2 to 4.

O R D E R

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

Mr.R.Rajeswaran, learned Special Government Pleader takes notice on behalf of the first respondent. Mr.A.Nagarajan, takes notice for the respondents 2 to 4. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. The petitioner, stated to be a tenant of the second floor of the premises at Door No.46, 3rd Seaward Road, Thiruvannamiyur, Chennai 41. According to the learned counsel for the petitioner, notice was issued to the owner of the property, who has been impleaded as fifth respondent in this writ petition. Thereagainst, the fifth respondent had gone in an appeal under Section 80 A of the Town and Country Planning Act, 1971. The appellate authority, observing that it is open to the owner to submit a revised plan to the Corporation for approval, after correcting all violations.

3. The learned counsel appearing for the petitioner, further, submits that no notice has been issued to the petitioner/occupier and as such, the petitioner is prejudiced on account of lack of opportunity of hearing. It is further contended that violation is on the ground floor and the owner is not willing to make corrections in the building.

4. Mr.A.Nagarajan, learned counsel appearing for the respondents 2 to 4/Corporation submits that the respondents 2 to 4 had not been issued with notice. Hence the same shall be issued forthwith. Thereafter, consequential action, in accordance with law, on its own merit, will be taken.

5. The learned counsel further submits that no action will be taken against the occupier, without an opportunity of hearing and taking recourse to the manner known to law.

6. In that view of the matter, we are not inclined to pass any other direction at this stage.

7. This writ petition stands disposed of accordingly. No costs. Connected Miscellaneous Petition Nos.1, 1 and 2, 2 are closed.

mvs.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government, Government of Tamil Nadu
Housing & Urban Development Department
Secretariat, Chennai 9.
2. The Commissioner,
Corporation of Chennai
Rippon Building
Chennai 3.
3. The Executive Engineer
Regional Joint Commissioner
South Region (Enforcement)
Corporation of Chennai
No.115, Dr.Muthulakshmi Salai
Adyar
Chennai 600 020.
4. The Executive Engineer,
Corporation of Chennai
Zone 13, No.115 Dr.Muthulakshmi Salai
Adyar
Chennai 600 020.

+ 1 cc to Mr.R.Raj Mohan, Advocate SR 35756

+ 1 cc to the Govt.Pleader SR 35959

ug(co)
prk29/7

W.P. No.21233 of 2015