

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

W.P. No.16148 of 2016 and W.M.P. Nos.13946 and 13947 of 2016

K. Ravi

Petitioner

vs.

1 The Secretary to Government
Housing and Urban Development Department
Fort St. George, Chennai 600 009

2 The Member Secretary
Chennai Metropolitan Development Authority
Gandhi Irwin Road
Egmore, Chennai 600 008

3 The Commissioner
Sembakkam Panchayat Union
Sembakkam Village
Tambaram Taluk, Kancheepuram District

4 Sivagurunathan

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the third respondent from taking any coercive steps against the petitioner's construction in premises bearing Nos.24 A and 24 B, Bavananthiar Street, comprised in Survey Nos.111/1 and 111/2, Sembakkam Village, Tambaram Taluk, Kancheepuram District, till the disposal of the appeal filed before the first respondent dated 29.02.2016 and further, direct the third respondent to take appropriate action against the fourth respondent for violation of the building construction made in Door No.2, Bhavananthiar I Cross Street, Kamarajapuram, Selaiyur, Chennai - 600 073.

For petitioner	Mr. M. Muthappan
For R1	Mrs. A. Srijayanthi Special Government Pleader
For R2	Mr. C. Johnson Standing Counsel
For R3	Mrs. Saraswathy Sivarama Iyer

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. C. Johnson, learned Standing Counsel, accepts notice for the second respondent. Mrs. Saraswathy Sivarama Iyer, learned Standing Counsel, accepts notice for the third respondent. Notice to the fourth respondent is dispensed with, at this stage, inasmuch as no order prejudicial to his interest, is passed in this writ petition. Thus, with the consent of the learned counsel for the petitioner and the learned counsel for the official respondents, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus forbearing the third respondent from taking any coercive steps against the petitioner's construction in premises bearing Nos.24 A and 24 B, Bavananthiar Street, comprised in Survey Nos.111/1 and 111/2, Sembakkam Village, Tambaram Taluk, Kancheepuram District, till the disposal of the appeals dated 29 February 2016 filed by the petitioner before the first respondent under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971 (for brevity "the Act") and further, direct the third respondent to take appropriate action against the fourth respondent for violation of the building construction made in Door No.2, Bhavananthiar I Cross Street, Kamarajapuram, Selaiyur, Chennai - 600 073.

3 It is stated by the learned counsel for the petitioner that questioning the legality of the orders dated 30 April 2015 passed by the third respondent, whereunder, his applications for planning permission have been rejected, the petitioner has preferred appeals before the Government, along with applications for condonation of delay and also, applications under the provisions of Section 79(5) of the Act for interim relief. During pendency of the appeals, the third

respondent has issued stop work notices/notices calling for approved plan on 15 March 2016. According to the petitioner, these notices are not just and proper, as the appeals are still pending consideration.

4 Without expressing any view on the legality of the aforestated notices, as it appears on the submissions made by the learned counsel for the petitioner that the petitioner has filed appeals after the statutory limitation period, the authorities were right in calling for approved plan and also directing the petitioner to stop work. Since the appeals are still pending consideration and also there is a provision for seeking interim relief, we are not disposed to adjudicate the dispute, at this stage. However, we make it clear that the petitioner shall not be permitted to make any construction. In the meantime, status quo as obtained today, in respect of the premises, shall be maintained, for a period of two weeks. The appellate authority is directed to consider the applications for interim relief within two weeks and also dispose of the appeals on their own merits and in accordance with law, as early as possible.

The writ petition stands disposed of with the above observation and direction. Costs made easy. Connected W.M.Ps. are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009

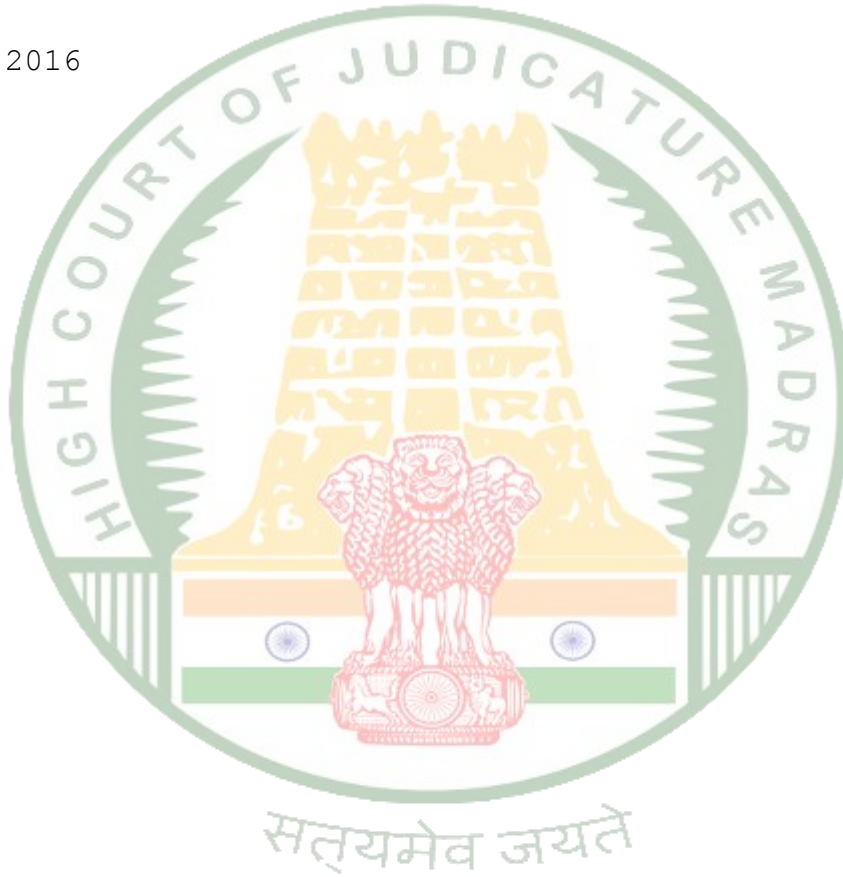
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3 The Commissioner
Sembakkam Panchayat Union
Sembakkam Village
Tambaram Taluk
Kancheepuram District

+1 cc to Mr.C.Johnson, Advocate, sr.27524
+1 cc to Mr.Muthappan, Advocate, sr.27445

W.P. No.16148 of 2016

ad co
kra 06.05.2016



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