

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.17790 of 2016
and W.M.P.No.15474 of 2016

Masjid E. Quba .. Petitioner
rep.by its secretary
V.G. Abdul Kalam, Coimbatore

-vs-

- 1.The Secretary to the Government,
Housing and Urban Development Dept.,
Fort St. George, Chennai 600 009.
- 2.The Commissioner,
Corporation of Coimbatore, Coimbatore.
- 3.The Tamil Nadu Waqf Board,
Rep. By its CEO, No.1, Vallal Seethakathi
Nagar, Chennai 600 001. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the 2nd respondent from initiating action under the notice dated 05.04.2016 in Na.Ka.3068/2106/MH2/E pending disposal of the appeal dated 18.04.2016 filed under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971, pending on the file of the 1st respondent.

For Petitioner	:	Mr.Deepak Kumar for Mr.I.Abrar Mohammed Abdullah
For Respondents	:	Mr.T.N.Rajagopalan, Spl.G.P. For R-1
	:	Mr.K.Magesh for R-2
	:	Mr.Mohammed Fayaz for R-3

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks a restraint against the second respondent / Corporation from initiating any action under notice dated 05.04.2016 in view of the appeal filed by the petitioner under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971, (hereinafter referred to as 'the said Act') is still pending consideration.

2.It is the case of the petitioner that the property was purchased by the petitioner vide sale deed dated 25.11.2011 and that the superstructure was existing there from 1974 and no change has been made. However, it is admitted that some pillar was sought to be erected in respect of which stop work notice was issued on 26.07.2013 followed by a demolition notice which has been assailed in the appeal.

3.We may note that the petitioner seeks to also get the benefit under Section 113-C of the said Act, but that aspect now stands clarified by our order in W.P.No.35514 of 2016 S.Edison vs. Secretary to Government, Housing and Urban Development Department and others, decided on 07.10.2016, as no rules have been framed under the said section. That benefit, thus, really does not available to the petitioner.

4.We are of the view, the following directions are liable to be issued:

- a) The appeal filed by the petitioner dated 18.04.2016 be disposed of by the first respondent within two (2) months from today;
- b) The petitioner shall not carry on any construction or repair at the site;
- c) In view of the admitted position of there being no permission to use the premises for religious purposes and the area being residential, the premises shall be only used for the specified purpose.

5.Writ petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.No.15474 of 2016 stands closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

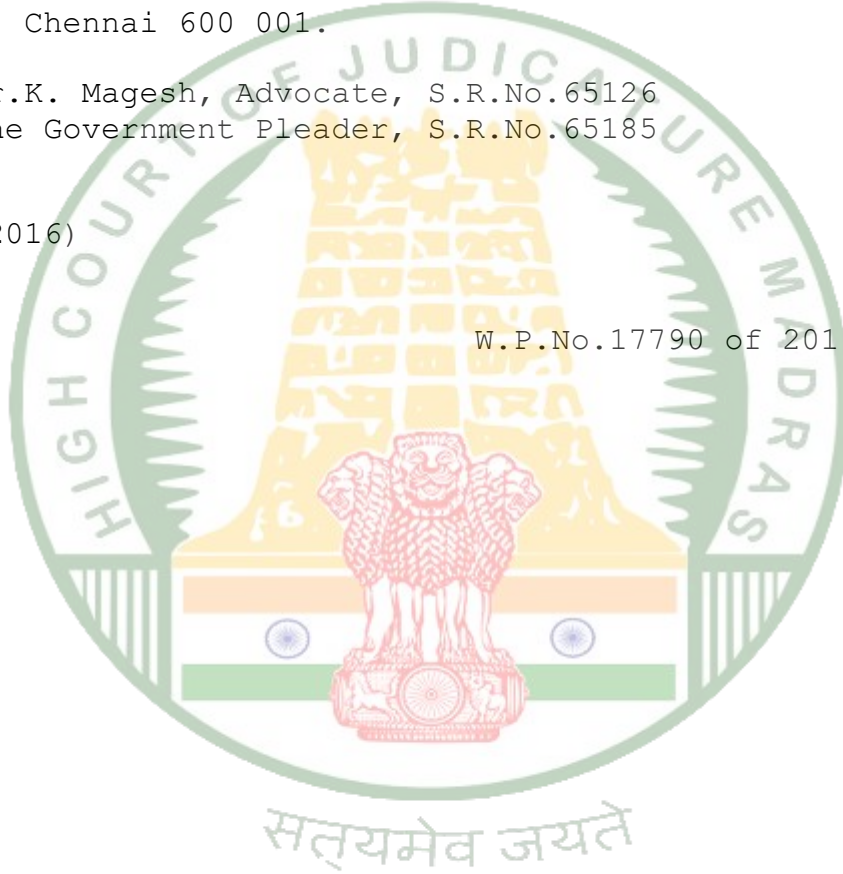
To

- 1.The Secretary to the Government,
Housing and Urban Development Dept.,
Fort St. George, Chennai 600 009.
- 2.The Commissioner,
Corporation of Coimbatore, Coimbatore.
3. The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Vallal Seethakathi
Nagar, Chennai 600 001.

+1cc to Mr.K. Magesh, Advocate, S.R.No.65126
+1cc to the Government Pleader, S.R.No.65185

nrjk(CO)
md(28/11/2016)

W.P.No.17790 of 2016



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