

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 22.07.2016

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THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.24517 of 2016
and
WMP No.20927 OF 2016

E.Kumaraaswamy ... Petitioner
Vs.

1. Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.

2. Greater Chennai Corporation,
Region - Central,
rep. by its Regional Joint Commission,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

3. Corporation of Chennai,
rep. by its Executive Engineer,
TP.Enforcement - Region Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, to direct the 2nd and 3rd respondents, to forbear them from in anyway interfering with the building at Door No.58/1, Sembada Street, West Saidapet, Chennai-600 015, particularly by way of Locking and Sealing and or demolition of the same pending disposal of petitioner's application under Section 80(A) and 80 (A)(3) of the Town and Country Planning Act, 1971, dated 09.06.2016 by the first respondent.

For Petitioner : Mr.D.S.Rajasekaran
For Respondents: Mr.A.Srijayanthi, Spl.GP-R1
Mr.A.Nagarajan for R2&R3

ORDER

(Order of the Court was made by HULUVADI G. RAMESH,J.)

This Writ Petition has been filed by the petitioner, praying for the issuance of a writ of Mandamus, directing respondents 2 and 3, to forbear them from in anyway interfering with the building at Door No.58/1, Sembada Street, West Saidapet, Chennai-600 015, particularly by way of Locking and Sealing and/or demolition of the same pending disposal of the petitioner's application under Section 80(A) and 80(A)(3) of the Tamil Nadu Town and Country Planning Act, 1971, dated 09.06.2016 by the first respondent.

2. According to the petitioner, he acquired the land to an extent of 540 sq.ft. together with a building by virtue of a partition deed and demarcated his portion for carrying out construction. For this purpose, the petitioner approached the 3rd respondent and submitted his proposal for demolition and re-construction. However, his proposal was not entertained on the ground that minimum requirement of 50 sq.mts. of land for eligibility to apply, is not available in view of partition. In such circumstances, the petitioner carried out only some repairs and started residing in the above said building. While so, according to the petitioner, at the instance of his brother and neighbour, the 3rd respondent issued a notice, dated 01.06.2016, calling upon him to remove the unauthorised portion in his premises, within three days from the date of receipt of such notice, failing which, the building will be locked and sealed. The petitioner sent a detailed reply on 3.6.2016 to the 3rd respondent. However, the petitioner was issued with notice, dated 7.6.2016 under Section 56(2)(A) of the Tamil Nadu Town and Country Planning Act, stating that lock and seal of the premises would be carried out within 30 days from the date of receipt of copy of the said notice. Aggrieved by the same, the petitioner preferred an appeal to the first respondent under Section 80(A) of the Tamil Nadu Town and Country Planning Act. The apprehension of the petition is that pending disposal of the appeal, the third respondent is taking steps to enforce the notice. Hence, the petitioner has come forward with the present writ petition.

3. We have heard Mr.D.S.Rajasekaran, learned counsel for the petitioner, Mrs.A.Srijayanthi, learned Special Government Pleader for the first respondent and Mr.A.Nagarajan, learned standing counsel appearing for respondents 2 and 3 and also perused the materials placed before this Court.

4. Admittedly, the petitioner has preferred an appeal on

9.6.2016 before the first respondent against the proceedings, dated 7.6.2016 under Section 80-A of the Act and it is pending for consideration. Therefore, it is for the first respondent - Appellate Authority to consider the same and pass appropriate orders therein, in accordance with law, after affording an opportunity to the petitioner.

5. Accordingly, without advertng to the merits of the case, the first respondent is directed to consider the appeal, dated 9.6.2016 preferred by the petitioner, in accordance with law and on merits, after affording an opportunity to the petitioner, within a period of two months from the date of receipt of a copy of this order. Till such orders are passed, the respondents are directed not to take any coercive steps.

6. The Writ Petition is disposed of, with the above direction. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.

2. Regional Joint Commissioner, Greater Chennai Corporation,
Region - Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

3. Executive Engineer, Corporation of Chennai,
TP.Enforcement - Region Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

1 cc to Mr.D.S.Rajasekaran, Advocate, sr.41735

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kra 09.08.2016