

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.8.2016

CORAM

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

W.P.No.27152 of 2016
and
W.M.P.No.23321 of 2016

V.Shanmugam

Petitioner

Versus

1 The Director
Town and Country Planning
Chengalvarayan Building
4th Floor No.807 Anna Salai
Chennai-600 002.

2 The Assistant Commissioner (North)
Corporation of Coimbatore
Coimbatore.

3 A.Chenniappan

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing respondents 1 and 2 from taking coercive steps pursuant to the orders passed by the respondent in Na.Ka.No.18146/2014/BA1 dated 7.12.2015.

For petitioner : Mr.S.B.Viswanathan

For R1 : Mr.P.S.Sivashanmugasundaram,
Special Govt. Pleader

For R2 : Mr.K.Magesh

ORDER

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

Heard the learned counsel appearing for the petitioner, Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader for the first respondent and Mr.K.Magesh, learned counsel for the second respondent, who takes notice on behalf of their respective parties.

2. The writ petition has been filed seeking issuance of a writ of mandamus forbearing respondents 1 and 2 from taking coercive steps pursuant to the orders passed by the respondent in Na.Ka.No.18146/2014/BA1 dated 7.12.2015.

3. The petitioner, claiming title over the vacant house site measuring 2417 sqft, bearing Plot No.17, S.F.No.417 of Thudiyalur Village, vide a settlement deed dated 30.8.2001 executed by his father M.N.Venkutusamy, is said to have put up ground floor by obtaining building plan approval and thereafter, constructed the first floor that too by obtaining building plan approval, but, when the petitioner proceeded to put up additional construction on the eastern side of the building, it was opposed by his neighbour, the third respondent, by filing a suit in O.S.No.2662 of 2012 on the file of the District Munsif, Coimbatore and in the meanwhile, the second respondent had issued a notice dated 22.11.2012 under section 296(1) of the Coimbatore City Corporation Act, directing the petitioner to demolish the unauthorised construction. Whileso, the third respondent had also a writ petition in W.P.No.4883 of 2013 for a direction to the second respondent to take appropriate action against the petitioner and this court, while disposing of the said writ petition, directed the petitioner to give reply to the notice dated 22.12.2012 and the second respondent was directed to consider the said reply and pass appropriate orders. The petitioner contends that he had submitted his reply to the third respondent vide his letter dated 20.1.2014. Thereafter, the second respondent issued notice dated 27.6.2014 directing the petitioner to remove/rectify the deviation. As against the same, the petitioner preferred a revision under section 80 of the Tamil Nadu Town and Country Planning Act, 1971, before the first respondent. Pending such revision, the petitioner filed a writ petition in W.P.No.26378 of 2014 and obtained an order dated 25.9.2014 for disposal of the revision and accordingly, the revision was disposed of by order dated 17.12.2015.

4. It is the further case of the petitioner that the revision was disposed of without any opportunity of hearing to the petitioner. Therefore, he had filed another writ petition in W.P.No.2338 of 2016 and later, he was permitted to withdraw the same with a liberty to file a review against the order passed by the first respondent. Accordingly, a review has been filed by the petitioner and pending such review, the present writ petition is filed.

5. The grievance of the petitioner is that he has not been heard in the matter and sufficient opportunity has to be given. It appears that the petitioner had also filed review application under section 81 of the Tamil Nadu Town and Country Planning Act, 1971 and pending consideration of the said review, the petitioner is before this court seeking the relief.

6. Therefore, it is for the petitioner to raise all his grievances especially with respect to the review is concerned if there is any patent error to review the order or to clarify. In the circumstances, to enable the petitioner to have a say in the matter as to whether there is any illegality committed in passing the impugned order, it is hereby ordered that the first respondent shall pass appropriate orders on the review application, after hearing the petitioner, within two months from the date of receipt of copy of this order. Till then no coercive steps shall be taken against the petitioner. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1 The Director
Town and Country Planning
Chengalvarayan Building
4th Floor No.807 Anna Salai
Chennai-600 002.

+1cc to M/s. Magesh, Advocate, S.R.No.44306

ALA(CO)
EU(02/09/2016)

W.P.No.27152 of 2016

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