

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM

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

Writ Petition No.27685 of 2016
and

W.M.P.No. 23846 of 2016

Boopalan

...Petitioner

Vs.

1.Corporation of Chennai,
represented by its Commissioner,
Rippon Buildings,
Chennai- 600 003.

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

3.Government of Tamil Nadu,
represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai- 600 009.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and de-occupation with regard to the building put up at Door No.S2, New No.73 (Old No.101) Second Main Road, South Jaganatha Nagar, Villivakkam, Chennai-49 under the Town and Country Planning Act till the disposal of appeal petition dated 08.07.2016 filed under Section 80-A of the Tamil Nadu Town and Country Planning Act before the third respondent.

For Petitioner	: Mr.A.V.Ezhilarasu
For R1 & R2	: Mr.A.Nagarajan
For R3	: Mr.P.S.Sivashanmugasundaram, SGP

ORDER

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

Mr.A.Nagarajan, learned standing counsel accepts notice on behalf of respondents 1 and 2. Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader accepts notice on behalf of the third respondent. With the consent of both the parties, the writ petition is taken up for final disposal at the stage of admission itself.

2. The prayer made in the Writ Petition is to issue a Writ of Mandamus, forbearing respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and de-occupation with regard to the building put up at Door No.S2, New No.73 (Old No.101) Second Main Road, South Jaganatha Nagar, Villivakkam, Chennai-49 till the disposal of the appeal petition dated 08.07.2016 filed under Section 80-A of the Tamil Nadu Town and Country Planning Act before the third respondent.

3. The case of the petitioner is that he is the owner of the flat bearing Door No.S2 at Plot No.101, Second Main Road, South Jaganatha Nagar, Villivakkam, Chennai- 600 049, which was constructed by the builder M/s.Jeayam Shelters Private Limited, after getting necessary approval from the Corporation of Chennai. While so, the second respondent issued de-occupation notice dated 28.04.2015 alleging that there are some violations/deviations in the construction of the building and calling upon the petitioner to discontinue the occupation of the flat, failing which, necessary action would be taken to secure compliance of the unauthorized building and lock and seal the said premises and carry out the demolition of the unauthorized construction of the building without any further notice. Challenging the same, he preferred an appeal dated 08.07.2016 before the third respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter shortly referred to as 'Act'). Pending the same, respondents 1 and 2 are threatening the petitioner of initiating action to lock and seal the premises. Therefore, the present writ petition came to be filed by the petitioner.

4. Heard both sides and perused the available materials.

5. The facts made available herein would reveal that in respect of the flat in question, which is in occupation of the petitioner, the second respondent issued a locking and Sealing and Demolition notice alleging that there are some violations/deviations in the construction of the building. Following the same, De-occupation notice dated 28.04.2015 was

issued, against which, the petitioner preferred an appeal dated 08.07.2016 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. It is the specific contention of the learned counsel for the respondents that the appeal filed by the petitioner under Section 80-A of the Act is belated one and the same is not maintainable. However, we are of the view that the same can be looked into by the third respondent at the time of deciding the Section 80-A appeal filed by the petitioner.

6. Therefore, considering the facts and circumstances of the case, we direct the third respondent to consider the appeal dated 08.07.2016 filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and pass appropriate orders, on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner. Till the disposal of the Section 80-A appeal, the parties are directed to maintain status quo as on today. However, it is made clear that the de-occupation notice already issued by the second respondent shall be considered, at the time of disposal of the Section 80-A appeal, on merits and in accordance with law.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

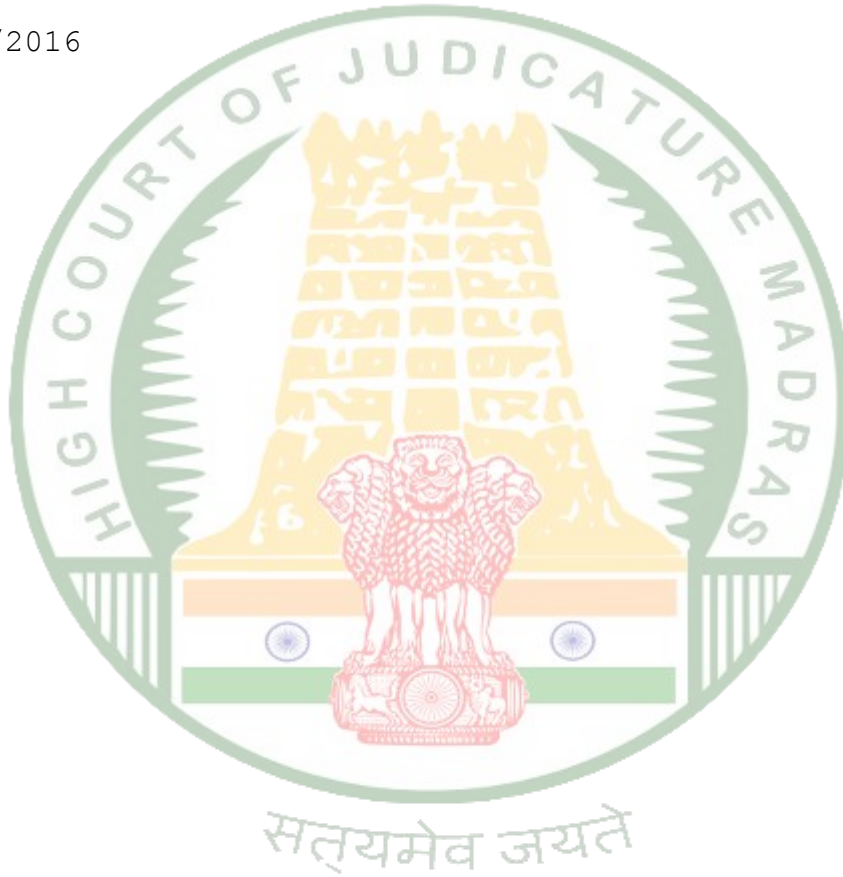
- 1.The Commissioner, Corporation of Chennai,
Rippon Buildings, Chennai- 600 003.
- 2.The Executive Engineer, Enforcement - Region Central,
2nd Cross Street (East), Pulla Avenue, Shenoy Nagar,
Chennai- 600 030.

3.The Secretary to Government, Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai- 600 009.

+1cc to Mr.A.V.Ezhilarasu, Advocate Sr.46125
+1cc to Mr.A.Nagarajan, Advocate Sr.45144
+1cc to the Government Pleader Sr.45434

W.P.No.27685 of 2016

ev[co]
srg 01/09/2016



WEB COPY