

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.29417 of 2016
and
WMP.No.25455 of 2016

J.Velu

...Petitioner

Vs.

- 1.The Executive Engineer (Town Planning)
Enforcement (South)
Corporation of Chennai,
O/o.the Regional Dy. Commissioner (South)
(Enforcement Cell)
Adyar, Chennai - 600 020.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram.
- 3.The Tahsildar,
Sozhinganallur Taluk,
Kancheepuram District.
- 4.The Commissioner,
Corporation of Madras,
Chennai - 600 003.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondents, particularly the first respondent in respect of belated notice dated 25.05.2016 vide Notice No.695/2016 and quash the same, consequently direct the first respondent to give ample opportunity to the petitioner for getting approval for the building plan.

For Petitioner : Mr.R.Thanjan
For R1 & R4 : Mr.V.C.Selvasekaran

For R2 & R3 : Mr.R.Prathapkumar, AGP

ORDER

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

Heard Mr.R.Thanjan, learned counsel for the petitioner, Mr.V.C.Selvasekaran, learned counsel for respondents 1 and 4 and Mr.R.Prathapkumar, learned Additional Government Pleader appearing for respondents 2 and 3. With the consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner has come forward with this writ petition to quash the notice dated 25.05.2016 issued by the first respondent and to direct the first respondent to give ample opportunity to the petitioner for getting approval for the building plan.

3. It is the case of the petitioner that he has purchased a residential plot at Door No.5/224 (Old No.5/222), Pillaiyar Koil Street, Okkiam, Thoraipakkam, Chennai-600 097, by a sale deed dated 05.02.2015 bearing Document No.842 of 2015 on the file of the Sub Registrar, Neelankarai. From the date of purchase and after constructing a house, he has been in possession and enjoyment of the said property by paying all the taxes to the Government. According to the petitioner, there is a 40 feet width road existing on the western side of Madha Koil Street, which is a common path for him and also to other house owners and there is also a small 3 feet narrow lane on the eastern side of his house.

4. It is the further case of the petitioner that while so, some persons viz., (i)N.Mani (ii)N.Ramachandran (iii)N.Jothi and (iv)N.Kumar, have tried to encroach the said 40 feet width road on the eastern and western sides and are attempting to construct houses/shops and other encroachments and causing obstructions to the petitioner and other people of Okkiampettai Village. Therefore, the petitioner has filed a writ petition in WP.No.24988/2015, which was disposed of by an order of this Court dated 13.08.2015, by directing respondents 2 to 4 to make proper spot inspection and take necessary action for removal of the alleged encroachments and pass appropriate orders, after affording an opportunity of hearing to the petitioner and other encroachers on merits and in accordance with law within a period of six weeks. The said order has not been complied with so far by the respondents. However, the first respondent has issued a notice dated 25.05.2016 calling upon the petitioner to produce a copy of the approved plan in original for verification. It is further stated therein that if the building has been constructed

without any permission / plan approval, the petitioner was directed to restore the building to its original condition within a period of one month. Challenging the same, the petitioner is before this Court with the present writ petition.

5. According to the learned counsel for the petitioner, the application preferred by the petitioner seeking approval of his building plan is under consideration by the competent authority and the impugned notice issued by the first respondent is nothing but an act of revenge and in collusion with the encroachers, whereas the learned standing counsel for the respondents submitted that the first respondent has only issued the impugned notice calling upon the petitioner to produce a copy of the approved plan for the purpose of verification, to which, the petitioner has to reply along with necessary documents.

6. Admittedly, by the impugned notice, the petitioner was directed to produce a copy of the approved plan to verify as to whether the building has been constructed as per the approved plan. It is also not in dispute that no final order has been passed with regard to the building in question. Therefore, it is for the petitioner to give his explanation and produce the necessary documents as sought for by the respondents. On such explanation and production of the documents by the petitioner, the respondents shall do the needful and pass appropriate order, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Executive Engineer (Town Planning)
Enforcement (South), Corporation of Chennai,
O/o.the Regional Dy. Commissioner (South)
(Enforcement Cell)
Adyar, Chennai - 600 020.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Tahsildar,
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Kancheepuram District.

4.The Commissioner,
Corporation of Madras,
Chennai - 600 003.

1 cc to Mr.R.Thanjan, Advocate, sr.51601

1 cc to Government Pleader, sr.51308

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