

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.9.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.31381 and 31382 of 2016
and

W.M.P.Nos.27238 to 27245 of 2016

C.Bosco
in W.P.No.31381/2016
A.G.Abdul Rahim

Petitioner

...Petitioner in W.P.No.31382/2016

Versus

- 1 The Government of Tamil Nadu
Rep by the Secretary
Housing and Urban Development
Department
Secretariat Fort St. George
Chennai-600 009
- 2 The Commissioner
Corporation of Chennai
Town Planning Enforcement
Ripon Building Chennai-600 003
- 3 The Executive Engineer
(Enforcement - Region Central)
Corporation of Chennai
Regional Office- Central
2nd Cross Street(East)
Pulla Avenue Shenoy Nagar
Chennai-600 030

...Respondents in both the cases

Prayer: Writ petition No.31381 of 2016 is filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the entire records of the respondents ending with Notice dated 29.08.2016 of the Second respondent pursuant to Notices dated 23.09.2014 and 28.04.2015 sent by the Third Respondent in respect of the petitioner's property at Door No. 10/1 (wrongly mentioned as 10/3 in the impugned notice) Ormes Road Kilpauk Chennai 600 010 and quash

the same.

Writ petition No.31382 of 2016 is filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the entire records of the respondents ending with Notice dated 29.08.2016 of the Second respondent pursuant to Notices dated 23.09.2014 and 28.04.2015 sent by the Third Respondent in respect of the petitioner's tenanted property at Door No. 10/1 (wrongly mentioned as 10/3 in the impugned notice) Ormes Road Kilpauk Chennai 600 010 and quash the same.

For Petitioner : Mr.T.P.Sankaran

For R1 : Mr.K.Dhananjeyan,
Special Govt. Pleader
in both WPs

For RR2 and 3 : Mr.V.C.Selvasekaran
in both WPs

COMMON ORDER

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

Heard the learned counsel appearing for the parties.

2. The petitioner in W.P.No.31381 of 2016 is the owner of the property in question and the petitioner in W.P.No.31382 of 2016 is the tenant in the said premises. The writ petition have been filed to call for the entire records of the respondents ending with Notice dated 29.08.2016 of the Second respondent pursuant to Notices dated 23.09.2014 and 28.04.2015 sent by the Third Respondent in respect of the property at Door No. 10/1 (wrongly mentioned as 10/3 in the impugned notice) Ormes Road Kilpauk Chennai 600 010 and quash the same.

3. It appears that noting some additional construction being made without sanctioned plan, steps have been taken by the respondents under sections 56 and 57 read with section 85 of the Tamil Nadu Town and Country Planning Act, 1971 as against the petitioners and therefore, the petitioners are before this court on the ground that despite their filing reply for the said notices, the respondents have proceeded to lock and seal as such, the petitioners are before this court.

4. The statutory remedy available to the petitioners is to file a revision as per the notification issued by the Government and under section 80A of the Act. The stand of the petitioners is that there is no encroachment nor violation of the building

plan. However, according to the Corporation, having visited the place, there is unauthorised construction. The stand of the petitioner is that the building is existing for more than 18 years. The Corporation sought to distinguish the same by contending that the building that existed was one and the additional construction put up is another and having found so, cognizance has been taken and notice has been issued.

5. The difficulty pleaded by the petitioners is that there are vegetables and other things inside the premises which is under lock and seal. Such being the case, it is for the Corporation to allow the petitioners to keep the premises in question de-sealed only for the purpose of removing such materials available in the premises. Further, liberty is provided under section 80A of the Act to file a revision before the appellate authority. Therefore, this court is not inclined to interfere with impugned order. However, the petitioners are at liberty to file revision petitions before the appellate authority within a period of fifteen days from the date of receipt of copy of this order and on such revision petitions being filed, the same shall be disposed of, on merits and in accordance with law, within a period of three months thereafter. The writ petitions are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

ssk.

To

- 1 The Secretary
The Government of Tamil Nadu
Housing and Urban Development
Department
Secretariat Fort St. George
Chennai-600 009
- 2 The Commissioner
Corporation of Chennai
Town Planning Enforcement
Ripon Building Chennai-600 003

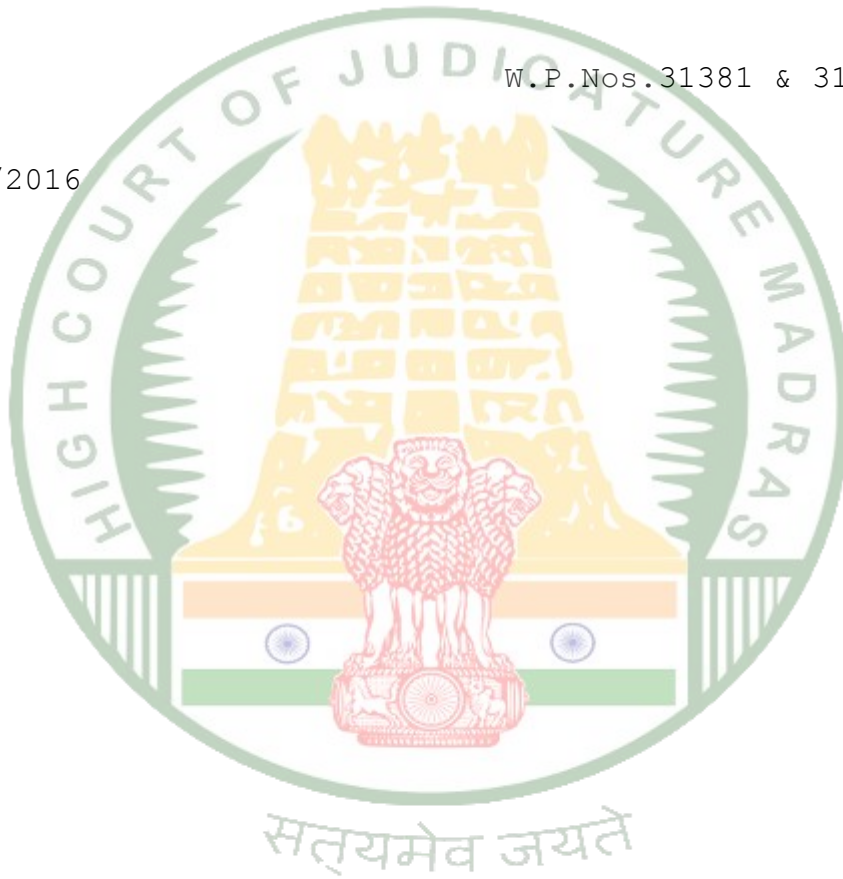
3 The Executive Engineer
(Enforcement - Region Central)
Corporation of Chennai
Regional Office- Central
2nd Cross Street (East)
Pulla Avenue Shenoy Nagar
Chennai-600 030

1 CC to Mr.T.P.Sankaran, Advocate, SR. 51974

2 CCs to Spl. Government Pleader, SR 52223

W.P.Nos.31381 & 31382 of 2016

TRM (CO)
PSI 06/10/2016



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