

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM

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

W.P.No.31563 and 31564 of 2016 and
WMP.Nos.27395 and 27396 of 2016

Mohamed NazeemPetitioner in W.P.31563/2016

P.VijayalakshmiPetitioner in W.P.31564/2016

Vs.

1. The Secretary to Government
Housing and Urban Development Department
Fort St.George, Secretariat
Chennai
2. The Commissioner
Corporation of Chennai
Ripon Building, Chennai-600 003
3. Executive Engineer
MTH Road, Zone-7 (Ambattur)
Greater Chennai Corporation
Chennai-600 053
4. K.Santhanam
5. S.Parameswari
6. T.Varunkumar
7. Hot Male Retail Private Limited
No.92, G.A.Road, Old Washermanpet
Chennai-600 021

... Respondents
in the above 2 WPs

Prayer in W.P.31563/2016:-Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus to forbear the 2nd and 3rd respondents from locking,

sealing and demolition of the building situated at Door No.412, comprised in S.No.607/2, Plot No.11, 12, situated at Ambattur Village, M.T.H.Road, Maruthi Complex, Ground Floor, Ambattur, Chennai-600 053 in pursuance of De-Occupation Notice issued by 3rd respondent in Notice No.Zone 7/1547/2016 dated 30.08.2016 during the pendency of Appeal preferred on the file of the 1st respondent.

Prayer in W.P.31564/2016:-Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus to forbear the 2nd and 3rd respondents from locking, sealing and demolition of the building situated at Door No.412, comprised in S.No.607/2, Plot No.11, 12, situated at Ambattur Village, M.T.H.Road, Maruthi Complex, Ground Floor, Ambattur, Chennai-600 053 in pursuance of De-Occupation Notice issued by 3rd respondent in Notice No.Zone 7/1546/2016 dated 30.08.2016 during the pendency of Appeal preferred on the file of the 1st respondent.

For Petitioner : Mr.B.Vijay

For Respondents : Mr.K.Dhananjayan,
in all WPs. Special Government Pleader for R1
Mr.A.Nagarajan for R2 and R3

COMMON ORDER

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

Heard Mr.B.Vijay, learned counsel for the petitioners, Mr.K.Dhananjayan, learned Special Government Pleader, accepting notice for the 1st respondent and Mr.A.Nagarajan, learned Standing counsel, accepting notice for respondents 2 and 3. Considering the nature of order passed herein, notice to respondents 4 to 7 is dispensed with.

2. It is averred in the Writ Petitions that the petitioners are in lawful occupation of the Shops put up by them in the aforementioned properties and due to civil disputes between the petitioners and respondents 4 to 7 herein, O.S.No.61 of 2012 and RCOP.No.30 of 2012 are pending on the file of the District Munsif Court, Ambattur. The further averments made in the Writ Petitions are that the 3rd respondent, issued De-occupation notice dated 30.08.2016 to the petitioners herein, stating that they have to discontinue the occupation of the premises within 7 days from the said notice, failing which, action will be taken under Section 56, Sub-Section(2a) and (5) clause(a) and (b)(i) and (ii) of Town and Country Planning Act, 1971, to secure compliance of

the unauthorised building and also stated that the lock and sealing of the premises and carrying out demolition of the unauthorised construction of building will be without any further notice. Aggrieved by the said notice, the petitioners are before this court.

3. The learned counsel for the petitioners submits that the petitioners filed individual appeals on 06.09.2016 under Section 80-A of Tamil Nadu Town and Country Planning Act, 1971, (herein after called as "Act") challenging the notice dated 30.08.2016, along with stay petition before the 1st respondent and thus, he prayed for a direction to the 1st respondent to dispose of the same.

4. Taking into consideration the averments made in the Writ Petitions and the submissions made by the learned counsel on either side, we direct the 1st respondent to consider the Appeal dated 06.09.2016, filed under Section 80-A of the Act and dispose of the same within the 3 months period in accordance with law, after affording an opportunity of personal hearing to the petitioners. Till a decision is taken by the 1st respondent, the 2nd and 3rd respondent shall not take any coercive action against the petitioners. It is made clear that it is open to the petitioners to raise all the contentions before the 1st respondent.

5. The Writ Petitions are disposed of with the above direction. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nvsri

To

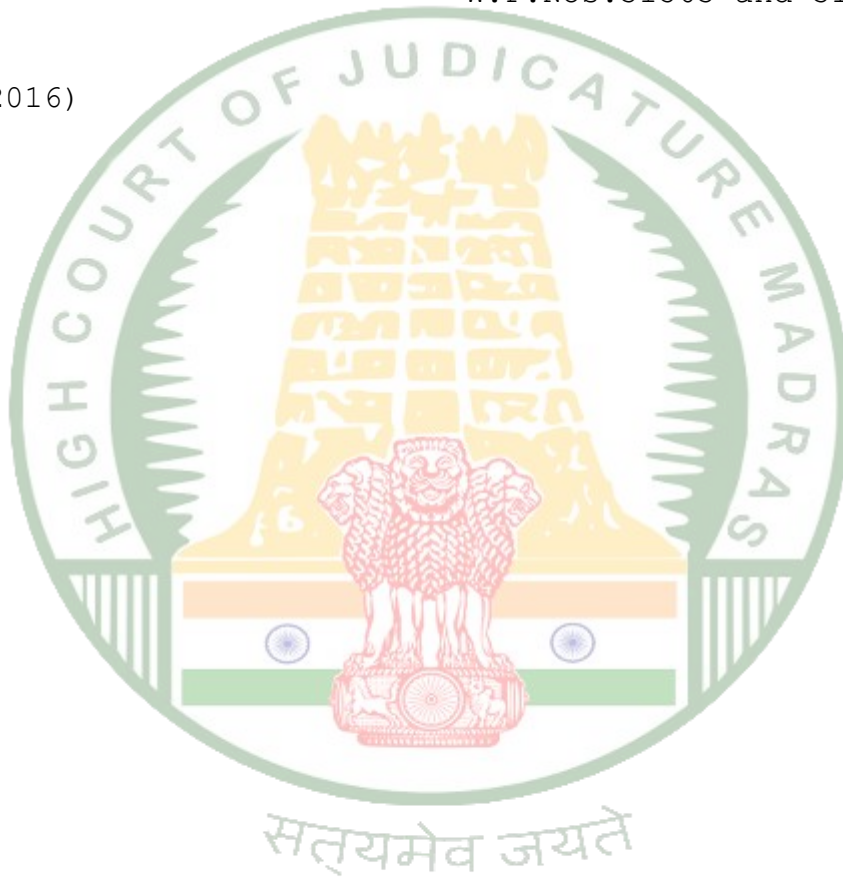
1. The Secretary to Government
Housing and Urban Development Department
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Corporation of Chennai
Ripon Building, Chennai-600 003

3. The Executive Engineer
MTH Road, Zone-7 (Ambattur)
Greater Chennai Corporation
Chennai-600 053.

+2cc's to Mr.B.Vijay, Advocate, S.R.Nos.51421 & 51422
+1cc to Mr.A.Nagarajan, Advocate, S.R.No.51491
+1cc to the Government Pleader, S.R.No.51609

W.P.Nos.31563 and 31564 of 2016

RV(CO)
CA(30/09/2016)



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