

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 04.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.33556 of 2016

and

WMP No.28964 of 2016

M. Rahiman Sheriff

.... Petitioner

-vs-

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-9.

2.The Member Secretary
Chennai Metropolitan
Development Authority (CMDA)
Gandhi Irwin Road
Egmore
Chennai-600 008.

.... Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents, their men, servants and agents from in any manner dispossessing the petitioner by locking, sealing and demolishing the property situated at Plot No.5, 48th Street, Nanganallur Co-Operative Building Society Colony, Nanganallur, Chennai - 600 061 and pass further orders.

For petitioner : Mr.R. Subramanian

For respondent 1 : Mr.S.Pattabiraman,
Govt.Advocate

For respondents 2 : Mr. K. Raja Shrinivas

O R D E R

(Order of the Court was made by Huluvadi G.Ramesh, J.)

Heard learned counsel for the petitioner and Mr.S.Pattabiraman, learned Government Advocate, who takes notice for first respondent and Mr.K. Raja Shrinivas learned counsel for second and third respondents.

2. With the consent of all the parties, the matter is taken up for final disposal at the stage of admission itself.

3. This Writ Petition is filed by the petitioner seeking for a direction, to forbear the respondents, their men, servants and agents from in any manner dispossessing the petitioner by locking, sealing and demolishing the property situated at Plot No.5, 48th Street, Nanganallur Co-Operative Building Society Colony, Nanganallur, Chennai - 600 061.

4. According to the Petitioner, he purchased 600 sq.ft. of the land from one Mrs. R. Ananthi, under a registered sale deed dated 28.02.2011. Initially the vendors were in possession and subsequent to the purchase, the petitioner was in possession and enjoyment of the said property. While so, based on the orders passed in W.P. No.2575 of 2016, the second respondent-CMDA has issued the Locking & Sealing and Demolition Notice dated 19.08.2016 against the petitioner. It is submitted that the petitioner was not made as a party in the said Writ Petition filed in the year 2016, although the petitioner was in the owner of the property from 2011. It is also submitted that the petitioner has not put up any new or additional construction to the existing building. In the additional counter filed by the CMDA it is admitted that there were two versions of the approved plan and the respondent CMDA has illegally accepting the version of the writ petitioners therein and rejecting the other version of the respondents, the present impugned notice has been issued. Against the said notice, the petitioner has preferred a revision petition to the first respondent under Section 80-A of the Town and Country Planning Act along with Stay petition. While the revision is pending, the officials of the 2nd respondent office, is taking coercive steps for demolishing the construction put up in the property. Hence, the petitioner has approached this Court with this Writ Petition, for the relief stated supra.

5. The petitioner has not been impleaded as a party neither in the W.P.No.25753 of 2015 nor in the suit in O.S.NO.10 of 2016, although he is the owner of the subject property from the year 2011. The allegations made therein is only against M/s.Ananthi Construction Private Limited for its illegal

construction in the common area. In the said writ petition, nothing has been stated with regard to the petitioner's property measuring 600 sq.ft. together with a building put up by the petitioner in the year 2011. The petitioner has submitted filed an appeal to the first respondent dated 16.09.2016 pleading to set aside the notice dated 19.08.2016.

6. Considering the above averments and the submission made by the learned counsel for the petitioner, it is for the 1st respondent to consider the appeal dated 16.09.2016 filed by the petitioner and pass necessary orders in accordance with law within three months from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner. Pending disposal of the appeal of the petitioner dated 16.09.2016, there shall be an order of status quo as on date.

7. The Writ Petition is disposed of, with the above direction. Consequently, the connected M.P is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

avr

To

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-9.

2.The Member Secretary
Chennai Metropolitan
Development Authority (CMDA)
Gandhi Irwin Road
Egmore
Chennai-600 008.

+1cc to Mr.K. Rajashrinivas, Advocate, S.R.No.57706
+1cc to Mr.W.M. Abdul Majeed, Advocate, S.R.No.57024

KJI (CO)
md (10/11/2016)

W.P.No.33556 of 2016 and
WMP No.28964 of 2016