

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM :

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

Writ Petition No.34363 of 2016
and
W.M.P Nos.29622 & 29623 of 2016

Veerchand B. Jain ...Petitioner

Vs.

1 Govt. of Tamil Nadu Rep by
its Secretary to Government
Urban Development Department
Fort St. George, Chennai-600 009

2 The Corporation of Chennai
Rep by its Commissioner
Ripon Building, Chennai-3

3 The Executive Engineer Zone-5
Corporation of Chennai
No.61 Basin Bridge Road
Chennai-600 021

4 The Assistant Engineer
Depot-54 Area-V
CMWSS Board Chennai

5 Anand Babu
No.2 Kailayar Street
Near by H-4 Police Station
Korukkupet Old Washermenpet
Chennai-600 021

...Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 3rd respondent in connection with the orders passed by him in his proceedings Ma.A.5/Special/2016 dated 15.09.2016 and the consequential orders passed by the 4th respondent in his proceedings dated 17.09.2016 in respect of the building at Door no. 23/12 Bashyakaralu Street, Kondithop, Chennai-600 079 and quash the same and pass further orders.

For Petitioner : Mr. R. Singaravelan, Senior Counsel
for M/s. M. Srividhya

For Respondents : Mr. P.S. Sivashanmugasundaram
Special Government Pleader for R1

Mr. A. Nagarajan for R2 to R4

ORDER

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

Mr.P.S. Sivashanmugasundaram, learned Special Government Pleader is directed to take notice for the first respondent and Mr. A. Nagarajan, for respondents 2 to 4 and notice to 5th respondent is dispensed with. With the consent of both the parties, the writ petition is taken up for final disposal, at the stage of admission itself.

2. Heard learned counsel for the petitioner and the learned counsel representing the department.

3. This Writ Petition is filed praying to issue a Writ Certiorari to quash the orders passed by the third respondent in his proceedings Ma.A.5/Special/2016 dated 15.09.2016 and the consequential orders passed by the 4th respondent in his proceedings dated 17.09.2016 in respect of the building at Door No.23/12, Bashyakaralu Street, Kondithop, Chennai-600 079.

4.The petitioner had put up a construction at the aforesaid address, with certain violations of the sanctioned plan and is living with his brothers. The 5th respondent filed a petition in W.P. No. 1153 of 2014, seeking to lock and seal and also demolish, the construction put up by the petitioner. Based on the final order of this Court dated 05.07.2016 on the said petition, the 3rd respondent passed an order on 15.09.2016 to lock and seal the building and also directed to cut the water connection. In this regard, a notice was issued on 17.09.2016 granting three days time for the petitioner to evict the premises. Immediately, the petitioner preferred a revision petition to the 3rd respondent stating that his appeal filed under Section 80-A of the Tamil Nadu Town and Country Planning Act and the stay petition dated 08.09.2016 is pending, before the Government/ first respondent. Hence, this writ petition has been filed to set aside the notices of the 3rd respondent, on the ground that the same have been issued during the pendency of the statutory appeal.

5. It is the submission of learned counsel for the petitioner that the appeal filed by the petitioner, under Section 80-A of the Tamil Nadu Town and Country Planning Act, is pending consideration before the Government and in the meanwhile the respondents have passed an order to lock and seal the building. According to the petitioner, the allegation made against him is that he has put up the construction in violation to the building plan, for which, he has made an application for according permission. But, this was rejected. In the meanwhile, notice is issued for lock and seal, against which, he has preferred a statutory appeal. Hence, the petitioner is seeking for intervention of this Court, restraining the respondents from implementing the notices for lock and seal, till the appeal pending before the Government is disposed of.

6. However, it is seen that there is violation in the construction of the building and that the statutory application is pending consideration. Therefore, it is for the Appellate Authority to issue notice to the 5th respondent and to hear the petitioner as well as the 5th respondent and consider the relief prayed for. The respondents shall pass appropriate orders, within a period of three months from the date of receipt of a copy of this order. Till then, the respondents are directed not to take any steps for the process of lock and seal and disconnection of water.

7. The Writ Petition is disposed of, with the above direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

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सत्यमेव जयते
Sub Assistant Registrar

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Chennai-600 009
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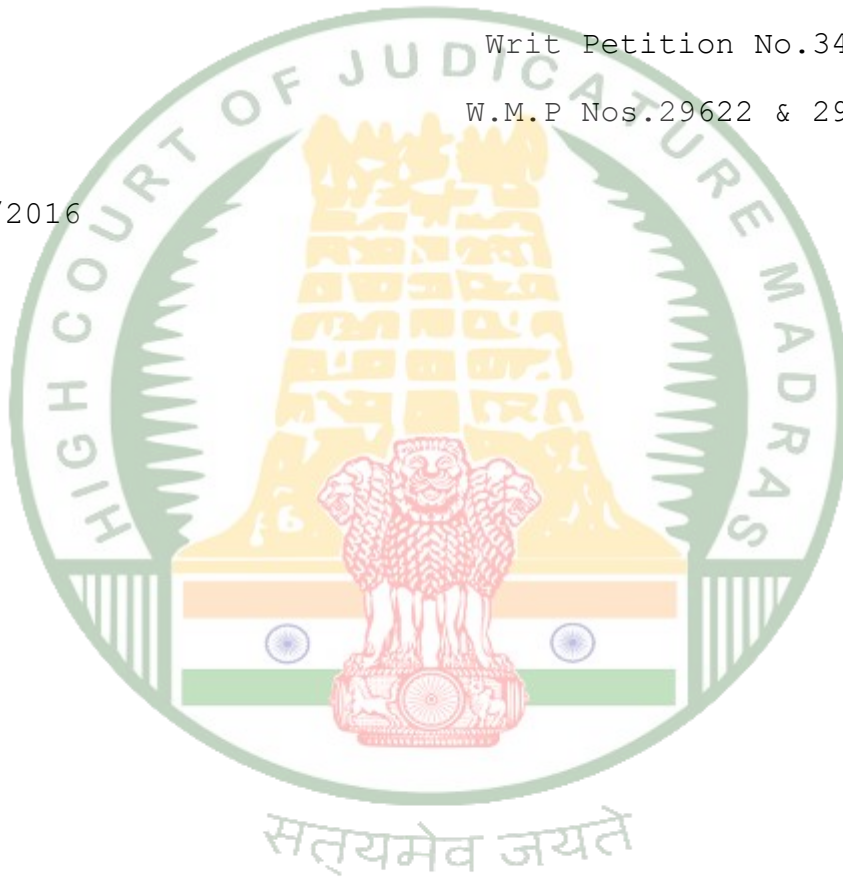
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+1cc to Mr.Srividhya, Advocate Sr.56153

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srg 06/10/2016



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