

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

CRP.No.1091/2017 &
CMP No.5235/2017

S.Asaithambi

..Petitioner/Plaintiff

..Vs..

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
2. The Executive Engineer,
U-30, zone-x,
Kodambakkam, Chennai-600 024.
3. The Assistant Executive Engineer,
U-30, Zone-X,
Kodambakkam, Chennai-600 024.
4. The Assistant Engineer,
Division-140,
Saidapet,
Chennai-600 105.

5 .R.Karunakaran

..Respondents

Prayer:- Civil Revision Petition filed under article 227 of Constitution of India to set-aside the order passed in O.S.S.R.No.11089/2017 dt.27.02.2017 on the file of 1st Asst. City Civil Court, Chennai, and allowed the same, directing the Registry, City Civil Court to number the suit.

For Petitioner : Mr.K.Natarajan

For Respondents : No Appearance

ORDER

Heard Mr.K.Natarajan, learned counsel appearing for the petitioner and perused the materials available on record.

2.The petitioner filed the Civil Revision Petition at the unnumbered stage of the suit in OS.SR.No.11089/2017.

According to the petitioner, the petitioner filed a suit against the respondent / Corporation on 17.02.2017 seeking the relief of declaration to declare that the impugned notice dated 27.12.2016 issued under Section 56 Sub-Section (2a) and (5) clause (a) and (b) (i) and (ii) Town and Country Planning Act 1971, as illegal, voidable and arbitrary and for permanent injunction.

3. According to the petitioner, the respondent / Corporation had already issued impugned notice dated 09.11.2013 Under Section- 56(2) Subclause (iii) and 2(A) of Town and Country Planning Act 1971 [Tamil nadu Act 34 of 1972 as amended by Act 61 of 2008] to carry out locking and sealing of the premises in due course under the provisions of Town and Country Planning Act. The petitioner preferred an appeal and that appeal was also dismissed on 21.04.2015 by the Government. Thereafter, the present impugned notice was issued by the respondent on 27.12.2016. The petitioner challenging the said notice, filed the suit before the City Civil Court. The said suit was dismissed as not maintainable at the unnumbered stage.

4. According to the petitioner, the petitioner has filed the suit against the impugned notice, issued by the 2nd respondent. Therefore, the Court below ought not to have returned the said complaint.

5. In the light of the decision rendered by this Court, in Citizen, Consumer and Civic Action Group, Adyar, represented by its Trustee .vs. to The Secretary to Government, Law Department and others in W.P.No.20618, 23936 & 3885 of 2010 dated 01.12.2011, this Court is of the view that the Suit is not maintainable. Therefore, this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is also closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1. First Asst.City Civil Court,
Chennai.

+1cc to Mr.K.Natarajan, Advocate in sr.no.18902

CRP.No.1091/2017

RV (CO)

NR 21/06/2017