

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2017

CORAM

The HON'BLE MS.INDIRA BANERJEE, THE CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.8161 of 2017

and

W.M.P.Nos.8937 & 8938 of 2017

Chellammal ... Petitioner

vs.

- 1 The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
- 2 The Assistant Executive Engineer,
Unit-VIII, Zone-3,
Chennai Corporation,
Madhavaram,
Chennai - 600 060. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records of the respondents particularly that of the second respondent vide notice No.DN/33/2016 dated 16.03.2017, received on 27.03.2017 under Section 56, 57 and 85 of the Tamil Nadu Town and Country Planning Act, 1971 and quash the same as illegal and null and void besides without jurisdiction, ultra vires and consequently, to forebear the respondents 1 and 2, their men, agents servants, or any one acting on their behalf from in any manner interfering with nor disturb the petitioner's shop portions situate at Plot No.227, GNT Road, Moolakadai, Chennai - 600 060.

For Petitioner : Mr.T.S.Rajamohan

For Respondents : Mr.V.C.Selvasekaran

ORDER

(Order of the Court was made by M.Sundar, J.)

The writ petitioner has filed this writ petition calling in question a notice dated 16.3.2017 bearing No.DN/33/2016 issued by the second respondent before us viz., the Assistant Executive Engineer, Unit-VIII, Zone-3, Chennai Corporation.

2. Heard Mr.T.S.Rajamohan, learned counsel for the petitioner.

3. Mr.V.C.Selvasekaran, learned standing counsel for the Chennai Corporation accepts notice on behalf of both the respondents.

4. We have also heard the learned standing counsel appearing for respondent Nos.1 and 2.

5. It is seen from the records that the impugned notice has been issued invoking the powers under Sections 56, 57 and 85 of the Tamil Nadu Town and Country Planning Act, 1971.

6. It is not in dispute that the second respondent has power to issue the impugned notice. Therefore, there is jurisdiction for the respondents to issue such a notice.

7. The contents of the impugned notice would reveal that the writ petitioner has been called upon to produce the sanctioned plan for the civil work/construction activity that is going on at the site. It is also seen from the impugned notice that the said notice has been issued after an inspection of the site.

8. The learned counsel for the petitioner would contend that the petitioner has not put up any construction and the work that is being carried out is in the nature of renovation.

9. Sitting in writ jurisdiction, based on the affidavits and the counter-affidavits, we cannot go into the said factual aspects. We refrain from expressing any opinion on that aspect of the matter, leaving it open in the light of the order which we propose to pass.

10. Both the learned counsel agreed that the impugned notice dated 16.3.2017 bearing No.DN/33/20-16 shall be treated as a show cause notice and the writ petitioner undertakes to give a written reply to the second respondent with supporting documents thereto within a fortnight i.e., on or before 20th

April, 2017. The second respondent shall examine the same, pass a suitable order and communicate the same to the petitioner.

11. With the above said observation and direction, the writ petition is disposed of, leaving the parties to bear their own costs. Consequently, W.M.P.Nos.8937 & 8938 of 2017 are closed.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To:

- 1 The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
 - 2 The Assistant Executive Engineer,
Unit-VIII, Zone-3,
Chennai Corporation,
Madhavaram,
Chennai - 600 060.
- +1 Cc to Mr. T.S. Rajamohan, sr 21165

CA(CO)
sp/18/4

W.P.No.8161 of 2017

सत्यमेव जयते

WEB COPY