

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.03.2017
CORAM
THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.5357 of 2017
and
WMP.No.5683 of 2017

K.Nandakumar

.. Petitioner

Vs.

1. The Executive Officer
Chitlapakkam Town Panchayat
Chennai - 600 064.
2. The Government of Tamil Nadu
rep. by its Secretary to Government
Housing and Urban Development Department
Fort St. George, Chennai - 600 009.
3. Chennai Metropolitan Development Authority
rep. by its Member Secretary
No.1 Gandhi Irwin Road, Egmore
Chennai - 600 008.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing the 1st respondent or anybody on their behalf from initiating any coercive action of locking and sealing and Demolition based on the 1st respondent's notices dated 05.10.2016 and 08.02.2017 with regard to the building put up at land comprised in S.No.263/B2, New S.No.263/B/15, situated at plot no.13/2, Meenakshi Street, Chitlapakkam, Sanatorium, Chennai - 600 047 till the disposal of the Appeal No. 21196 of 2016 filed by the petitioner under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.A.Jenasenan
For Respondents : Mr.M.K.Subramanian
Government Pleader
for 2nd respondent

Mr.M.Perumal
Government Advocate
for 1st respondent

Mr.K.Rajasrinivas
for 3rd respondent

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.M.K.Subramanian, learned Government Pleader takes notice for the second respondent. Mr.M.Perumal, Government Advocate takes notice for the first respondent and Mr.K.Rajasrinivas, learned counsel takes notice for the third respondent.

2. Heard the learned counsel for the parties.

3. The petitioner has filed this writ petition seeking issuance of a writ of Mandamus forbearing the 1st respondent or anybody on their behalf from initiating any coercive action of locking and sealing and Demolition based on the 1st respondent's notices dated 05.10.2016 and 08.02.2017 with regard to the building put up at land comprised in S.No.263/B2, New S.No.263/B/15, situated at Plot No.13/2, Meenakshi Street, Chitlapakkam, Sanatorium, Chennai - 600 047 till the disposal of the Appeal No.21196 of 2016 filed by the petitioner under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

4. It is the case of the petitioner that he is the owner of the property and even though the first respondent served a stop work notice dated 10.7.2013, pursuant to the site inspection it was confirmed by the first respondent that there was no deviation to the approved plan and further action was dropped. Thereafter, based on order dated 30.10.2013 passed in W.P.No.20354 of 2013, a writ petition filed by third parties to remove encroachment put up by the petitioner herein, it is alleged that again a lock and seal and demolition notice dated 5.10.2016 was issued by the first respondent and challenging the same he has filed an appeal under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 and the same is pending

consideration before the second respondent. It is stated that even after filing of the appeal, another lock and seal and demolition notice was served on the petitioner dated 8.2.2017. Under such circumstances, the present writ petition is filed for the relief stated supra.

5. Considering the facts and circumstances of the case, we direct the second respondent to consider the appeal filed by the petitioner on 19.10.2016 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner within three months from the date of receipt of a copy of this order. Till the disposal of the appeal, no coercive steps shall be taken by the respondent authorities.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.5683 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Officer
Chitlapakkam Town Panchayat
Chennai - 600 064.
2. The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Fort St. George, Chennai - 600 009.
3. The Member Secretary
Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road, Egmore
Chennai - 600 008.

+1cc to Mr.Jenasenan, Advocate, S.R.No.14422
+1cc to Mr.Rajashrinivas, Advocate, S.R.No.14353
+1cc to the Government Pleader, S.R.No.14777

NMJ(CO)
RS(17/03/2017)

W.P.No.5357 of 2017