

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 03.03.2017  
CORAM  
THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.5386 of 2017  
and W.M.P.No.5715 of 2017

Heritage Jayendra Nagar House  
Owners Association  
Rep. by its Secretary Mr.S.L.O. Jones  
Sembakkam, Kancheepuram District,  
Tambaram Taluk,  
Chennai - 600 073. ... Petitioner  
Vs.

- 1 The State of Tamil Nadu  
rep. by its Secretary  
Housing and Urban Development Department  
Fort St. George,  
Chennai - 9.
- 2 The Commissioner  
Sembakkam Municipality  
Sembakkam,  
Tambaram Taluk  
Kancheepuram,  
Chennai - 600 073. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing the respondents 1 and 2 from in any manner initiating any coercive action of locking sealing and demolition of the public toilet put up in Ward No.3 Heritage Jayendra Nagar Park Heritage Jayendra Nagar Sembakkam Chennai 73 till the disposal of the petitioners Appeal under Section 79 of the Tamil Nadu country planning act dated 20.01.2017 pending on the file of the 1st respondent.

For Petitioner : Mr.L.Chandrakumar  
For Respondents : Mr.R.Vijayakumar  
Addl. Government Pleader

ORDER

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

Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for the respondents.

2. Heard the learned counsel for the parties.

3. The petitioner has filed this writ petition seeking issuance of a writ of Mandamus forbearing respondents 1 and 2 from in any manner initiating any coercive action of locking sealing and demolition of the public toilet put up in Ward No.3, Heritage Jayendra Nagar Park, Heritage Jayendra Nagar, Sembakkam, Chennai - 600 073 till the disposal of the petitioner's appeal under Section 79 of the Tamil Nadu Town and Country Planning Act dated 20.01.2017 pending on the file of the 1<sup>st</sup> respondent.

4. The petitioner/House Owners Association is a non-gated community of 280 individual houses. The petitioner/association constructed a public toilet in Park-I Area under the Swacch Bharat Scheme out of its own funds for public utility. The second respondent issued notice on 17.11.2016 to demolish the public toilet within three days. The petitioner filed an appeal before the first respondent under Section 79 of the said Act on 20.1.2017 along with a petition for stay. However, no order has been passed till date. Hence, the present writ petition.

5. Considering the facts and circumstances of the case, we direct the first respondent to consider the appeal filed by the petitioner on 20.1.2017 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, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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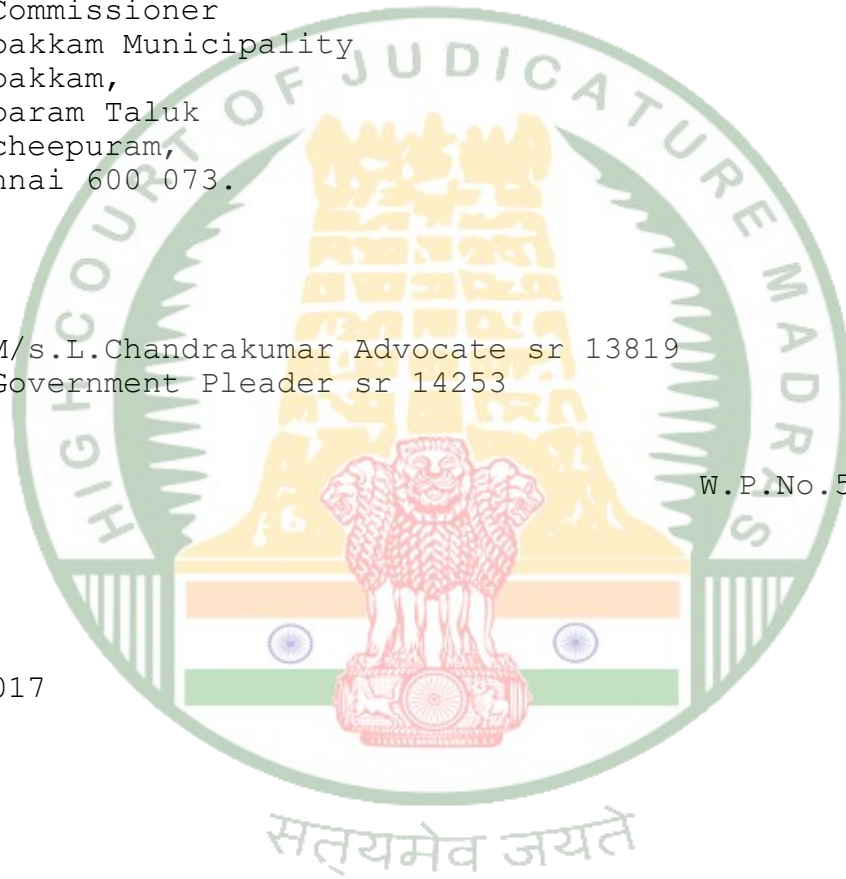
To:

- 1 The Secretary  
State of Tamil Nadu  
Housing and Urban Development Department  
Fort St. George,  
Chennai 9.
- 2 The Commissioner  
Sembakkam Municipality  
Sembakkam,  
Tambaram Taluk  
Kancheepuram,  
Chennai 600 073.

+1 cc to M/s.L.Chandrakumar Advocate sr 13819  
+1 cc to Government Pleader sr 14253

W.P.No.5386 of 2017

skv(co)  
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