

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM :

The Hon'ble MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P.No.4466 of 2017

and

W.M.P.Nos.4678 & 4679 of 2017

Ananda Kumar

... Petitioner

-vs-

1.The Commissioner,
Greater Corporation of Chennai,
Ripon Building,
Chennai-600 003.

2.The Regional Deputy Commissioner
(Central),
Greater Corporation of Chennai,
Door No.36B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar
Chennai-600 030.

3.The Assistant Executive Engineer/
Unit 40A Zone - XIII
Greater Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.

4.The Public Information Officer,
Greater Corporation of Chennai,
Ripon Building,
Chennai-600 003.

5.Senthil,
The Assistant Engineer,
Division 170 (Old Division 140),
Greater Corporation of Chennai,
No.27, South Face Road,
Guindy Industrial Estate,
Ekkattuthangal,
Chennai-600 032.

6.Kumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records pertaining to the impunged order Notice No.170/005/2017 dated 06.1.2017 and Z.O.13/C.No. 2017 dated 30.1.2017 of the third respondent and quash the same and consequently direct the respondents 1 to 5 to forbear from proceeding against the petitioner's property situated at No.7/1, Kannagi Street, Visalatchi Nagar, Ekattuthangal, Chennai-600 032 under Section 56(1) and 57 r/w Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 till the adjudication of the application dated 09.1.2017 of the petitioner submitted before the fourth respondent under the Right to Information Act, 2005.

For Petitioner : Mr.K.Elangoo

For Respondents : Mr.A.Nagarajan for R1 to R4

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

Mr.A.Nagarajan, learned counsel takes notice for respondent Nos.1 to 4.

2. Heard the learned counsel for parties.

3. The petitioner has filed this writ petition seeking to quash the stop work notice/notice calling for approved plan dated 06.1.2017 and the communication dated 30.1.2017 issued by the third respondent and consequently direct the respondent/authorities from proceeding against the petitioner's property bearing No.7/1, Kannagi Street, Visalatchi Nagar, Ekattuthangal, Chennai-32.

4. It is the case of the petitioner that his father Masilamani is the absolute owner of the above mentioned property and died intestate leaving the petitioner, his mother and four other children as legal heirs. The sixth respondent has put a construction in his property without leaving 5 feet set back on the side of the petitioner's property and thus, encroached upon the petitioner's property. The petitioner made a representation to respondent Nos.1 and 2 for demolition of the construction put up by the sixth respondent. Since no action was taken, the petitioner filed W.P.No.44086 of 2016. This Court, while disposing of the writ petition, directed the

authorities to determine the veracity of the allegation of the petitioner and then take a decision. On 5.1.2017, the fifth respondent came to the premises of the petitioner and threatened him to settle the dispute with the sixth respondent or otherwise, they will take action against the petitioner's property. The petitioner received stop work notice/notice calling for approved plan dated 06.1.2017 from the third respondent, for which the petitioner has sent a reply. The petitioner also requested the third respondent to grant him four months time to approach the concerned department of the Corporation to obtain the certified copy of the approved plan. The request of the petitioner was declined by the third respondent vide communication dated 30.1.2017. Aggrieved by the same, the petitioner preferred an appeal. While things stood thus, now respondent Nos.3 and 5 colluding with the sixth respondent, issued the impugned notice, which is challenged in this writ petition.

5. The learned counsel for the petitioner submits that only after obtaining the planning permission, the petitioner's father constructed the building. During heavy rain in December 2015, the original approved plan and other records in respect of the house property were destroyed and washed away. That is the reason why, the petitioner was not able to produce the plan before the third respondent. In this regard, the petitioner has submitted an application on 9.1.2017 to the Public Information Officer, Corporation of Chennai requiring certain informations. The third respondent vide his communication dated 30.1.2017 stated that the request of the petitioner could not be considered, as he had not furnished any planning permission approval number and building application number in respect of the building. The third respondent informed the petitioner that further action will be taken as per Tamil Nadu Town and Country Planning Act, 1971. It is the say of the petitioner that the notices impugned were issued by the third respondent only at the instigation of the sixth respondent and prays for quashing of the same.

6. Considering the facts and circumstances of the case, we direct the respondents 1 to 4 to re-examine this matter and thereafter initiate action in accordance with law, if there is any violation, within a period of three months from the date of receipt of a copy of this order. In the interregnum, the respondent/authorities shall not take any coercive steps. The petitioner is at liberty to produce the documents, if any available with him before the respondent/authorities.

7. The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.4678 & 4679 of 2017 are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Greater Corporation of Chennai,
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- 2.The Regional Deputy Commissioner (Central),
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- 4.The Public Information Officer,
Greater Corporation of Chennai,
Ripon Building,
Chennai-600 003.

+1cc to M/s. K. Elango, Advocate, S.R.No.11203
+1cc to Mr.A. Nagarajan, Advocate, S.R.No.11716

KJ(CO)
EU 02.03.17

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