

In the High Court of Judicature at Madras

Dated 04.08.2017

Coram

The Honourable Mr.Justice R.SUBBIAH

AND

The Honourable Mr.Justice A.D.JAGADISH CHANDIRA

W.P.No.20758 of 2017

and

W.M.P.Nos.21580 of 2017

S.Babulal Jain

.. Petitioner

..vs..

- 1.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-3.
- 2.The Executive Engineer,
Corporation of Chennai, Zone-V,
No.61, Basin Bridge Road, Chennai-21.
- 3.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing & Urban Development Department,
Secretariat, Fort St. George,
Chennai-600 009.

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, forbearing the respondents 1 & 2 from initiating any coercive action of locking and sealing and demolition action with regard to the building put up at No.40/17, Raghunayakalu Street, George Town, Chennai-3, pending determination of petitioner's special revision petition filed under Section 80(A) of the Tamil Nadu Town and Country Planning Act, dated 17.07.2017, with 3rd respondent.

For Petitioner : Mr.R.Mohan
For Respondents : Mr.A.Nagarajan (For R1 & R2)
Mr.R.Vijayakumar, AGP (For R3)

JUDGMENT

(Order of the Court was made by R. SUBBIAH, J.,)

Mr.A.Nagarajan, learned standing counsel takes notice for respondents 1 & 2. Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for the 3rd respondent.

2. The present writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, forbearing the respondents 1 & 2 from initiating any coercive action of locking and sealing and demolition, with regard to the building put up at No.40/17, Raghunayakalu Street, George Town, Chennai-3, pending determination of petitioner's special revision petition dated 17.07.2017 filed under Section 80(A) of the Tamil Nadu Town and Country Planning Act, dated 17.07.2017, by the 3rd respondent.

3. In the affidavit filed in support of the writ petition, it has been averred by the petitioner that the property situated at No.40/17, Raghunayakalu Street, George Town, Chennai is owned by him. In the said property, after demolishing the old building, in order to put up new building thereon, he obtained planning permission from Corporation of Chennai vide PPA No.5915/1997, dated 10.11.1997. During the course of construction, considering the locality and the buildings in the neighbourhood, he raised additional floors and the same was carried out as early as in the year 1998. In order to regularize the deviations in the construction, he submitted revised plan to Chennai Metropolitan Development Authority (in short CMDA) in the year 2000 and thereafter, on account of regularization scheme notified under Section 113-A of the Town and Country Planning Act, he opted to avail the benefits under regularization scheme by submitting application in REG.No.28535 to CMDA, dated 29.06.2002, which is still pending. At the time of submitting the application, he had paid Rs.1,01,000/- towards initial fee and scrutiny fee. The building is put to use by his family members partly for residential and partly commercial. The property tax for the entire building was assessed by Corporation of Chennai since 2000 and the building is otherwise eligible for regularization. Such being the case, nearly after 15 years of application for regularization, the officials of the Corporation of Chennai, through the 2nd respondent herein, vide. Letter No.28535/2017, dated 05.06.2017, issued notice under Section 56 of the Town and Country Planning Act with regard to locking and sealing and demolition of the building, alleging that the application for regularization was rejected by CMDA. Aggrieved over the said notice, the petitioner has preferred a revision petition under Section 80A, along with a stay petition,

on 17.07.2017, before the 3rd respondent and the same is pending consideration. Apprehending that the respondents would initiate coercive action, the present writ petition is filed.

4.Considering the facts and circumstances of the case, We direct the 3rd respondent to consider the revision and the stay petition filed by the petitioner on 17.07.2017 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 revision, no coercive steps shall be taken by the respondent authorities.

The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssv

Copy to

- 1.The Commissioner,
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Ripon Buildings, Chennai-3.
- 2.The Executive Engineer,
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No.61, Basin Bridge Road, Chennai-21.
- 3.The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Department,
Secretariat, Fort St. George,
Chennai-600 009.

+1 cc to Mr.R.Mohan Advocate sr 55519
+1 cc to Mr.A.Nagarajan Advocate sr 55537
+1 cc to the Government Pleader sr 56438

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and

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