

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.3190 of 2017
and
W.M.P.Nos.3139 & 3140 of 2017

P.K.Jose

... Petitioner

-Vs-

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

2. The Executive Engineer,
Zone - VI, Corporation of Chennai,
Regional Office at No.5, Anderson Road,
Ayanavaram,
Chennai-600 023.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari by calling for the records relating to the impugned notice No.Zone VI/TNCPT/014/2016 dated 08.12.2016 issued by the second respondent and quash the same.

For Petitioner : Mr.M.B.Mustaque Ahamed

For Respondents : Mr.V.C.Selvasekaran
for R1 & R2

ORDER

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

The De-occupation notice dated 08.12.2016 is sought to be assailed. Admittedly, the second floor is an unauthorised. There are stated to have been deviations in the first floor. The notice dated 28.11.2016 issued calling for the approved plans was served on the brother-in-law of the petitioner and the plans were not produced.

2. The learned counsel for the petitioner states that in so far as the second floor is concerned, the construction is of the year 2006, and the petitioner claims to have filed an application under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971. However, in our view, that would not come to the aid of the petitioner, as we have already held in S.Edison vs. Secretary to Government, Housing and Urban Development Department and others, MANU/TN/2535/2016, that the remedy under Section 113-C of the Act is illusory unless rules and regulations are framed thereunder and the benefits can only be extended to the constructions which are before 28.02.1999, for which an application ought to have been made at that time. However, that is not the position in the present case.

3. The learned counsel for the petitioner requests that a fresh measurement may be carried out at his instance and at his costs to verify the extent of deviations and the unauthorised construction and also to find out whether any part of it is capable of regularisation.

4. The learned counsel for the Corporation states that they will carry out the measurement within a week and on the same period of time, the petitioner will produce the sanctioned plans and any other relevant documents. Dependent on the aforesaid, final decision will be taken within a period of three weeks thereafter by the Corporation.

5. The writ petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.Nos.3139 & 3140 of 2017 are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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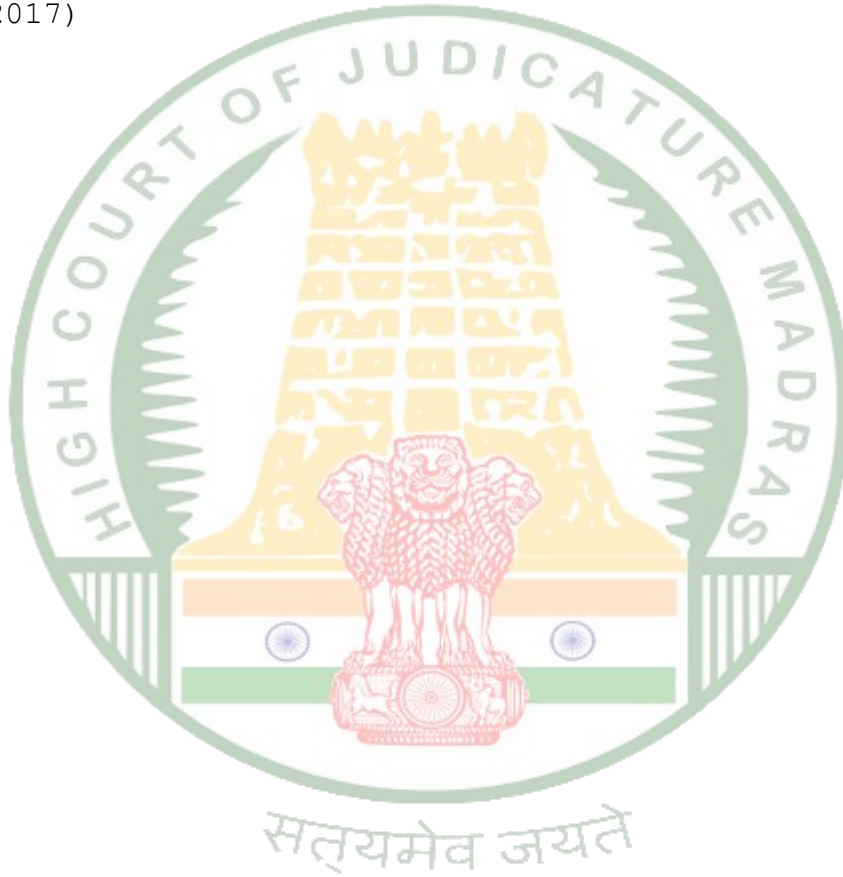
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+1cc to Mr.R.Ramesh, Advocate, S.R.No.8240

W.P.No.3190 of 2017

GJ II(CO)
CA(16/02/2017)



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