

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP.No.31961/2017 & WMP.Nos.35110 & 35111/2017

S.Bhavanisekar

.. Petitioner

Versus

1. The Secretary
Housing and Urban Development
Secretariat, Fort St George
Chennai-9.

2. The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai.

3. The Assistant Engineer
Chennai Corporation
Division-057, Chennai.

4. The Assistant Executive Engineer
Unit-12, Chennai Corporation
Chennai.

5. The Executive Engineer
Zone-5, Chennai Corporation
Chennai.

6. The Chairman
Pachaiyappa's Trust
No.21, Harrington Road
Chetpet, Chennai-31.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus forbearing the respondents from Locking and Sealing the petitioner premises at Ground and First Floor at Door No.35, Kandappan Chetty Street, Chennai 600 001 in pursuant to the lock and seal notice in ref.No.05/3503/2017 dated 31.08.2017 issued u/s.56 and 57 read with 85 of the Tamil Nadu Town and Country Planning Act, 61 of 2008 and consequently, direct the 1st respondent to dispose the

revision petition dated 30.10.2017 filed by the petitioner.

For Petitioner : Mr.M.Selvam
For R1 : Mrs.M.E.Rani Selvam, AGP
For RR 2 to 5 : Dr.C.Ravichandran

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Dr.C.Ravichandran, learned Standing counsel accepts notice on behalf of the respondents 2 to 5.

2 The petitioner would state that the brother of his father [late] Mr.A.Deivasigamani, had occupied the premises bearing Door No.35, Kandappa Chetty Street, Madras-1, in the year 1990 itself as a tenant and after his demise, the petitioner has become the direct tenant of the said premises under the 6th respondent. The petitioner wanted to demolish the old construction and put up a new one, for which, the 6th respondent has also accorded No Objection vide letter dated 24.08.2015 in RC.No.C1/1579/2015/T.No.81 and the petitioner has put up a new superstructure and according to him, it is also assessed to property tax. However, to the shock and surprise of the petitioner, the 5th respondent has issued the De-Occupation Notice u/s.56 [2A] and 57 read with section 85 of the Tamil Nadu Town and Country Planning Act, 1971, calling upon him to de-occupy the premises within 15 days from the date of receipt of the notice. The petitioner, challenging the legality of the said notice, filed a special revision / appeal u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent. The petitioner, pending disposal of the revision, submitted a representation dated 06.12.2017 and stated that in the premises, he had stored turmeric, kumkum and other vegetable products and on account of locking and sealing, the said products are likely to get deteriorated in quality and hence, made a request to remove the lock and seal put up on the premises and since it has not been given disposal, he came forward to file the present writ petition.

3 Mr.M.Selvam, learned counsel for the petitioner would submit that since the application submitted for re-construction of the premises got delayed and that the business activities of the petitioner also got affected and with the genuine impression that the act of construction put up, would be ratified at a later point of time, the petitioner has proceeded and completed the construction and it is also subjected to statutory levies by the Corporation of Chennai and as such, the impugned De-Occupation Notice is not sustainable and would further state

that the special revision/appeal is also pending before the 1st respondent and prays for appropriate orders.

4 Per contra, Dr.C.Ravichandran, learned Standing counsel appearing for the respondents 2 to 5 would submit that admittedly, the petitioner after obtaining No Objection Certificate from the 6th respondent / landlord, had demolished the existing structure and had put up a new structure without any planning permission whatsoever and thereafter, action has been taken strictly in accordance with law and as on date, the premises in question is under lock and seal and the remedy open to the petitioner, if any, is to expedite the disposal of the special revision/appeal said to be pending before the 1st respondent.

5 This Court also heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the 1st respondent and also perused the materials placed before it.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent to entertain the special revision/appeal filed by the petitioner, if the papers are otherwise in order and give a disposal on merits and in accordance with law as expeditiously as possible and not later than twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. If the petitioner wants to remove the articles which are stored inside the premises which is under lock and seal, to some other premises, it is open to him to submit a representation to the 5th respondent, who on receipt of the same, is directed to consider and pass appropriate orders within a period of one week from the date of receipt of the representation and communicate the decision taken, to the petitioner.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

AP

To

1. The Secretary
Housing and Urban Development
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 6. The Chairman
Pachaiyappa's Trust
No.21, Harrington Road
Chetpet, Chennai-31.
- +1 CC to Dr.C. Ravi, Advocate sr 87204.
+1 CC to Mr.M. Selvam, Advocate sr 87522.
+1 CC to Govt. Pleader sr 88155.

SP(18/12/2017)

WP.No.31961/2017

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