

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2017

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.32417 of 2017

Pawan Khubchandani ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to State,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2.The Principal Secretary /
The Commissioner,
Chennai Corporation, Ripon Buildings,
Chennai-600 003.

3.The Assistant Executive Engineer,
Zone-V, Chintadripet Division,
Chennai-600 002.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider his representation dated 05.11.2017 to de-seal the building situated at No.57/1, Singannachetty Street, Chindatripet, Chennai-600002, so as to enable the petitioner to comply with the notice issued by the 3rd respondent, vide Lr.No.DN/041/2016 dated 02.11.2016.

For Petitioner : Mr.J.Ashok
for M/s.K.Ramachandran

For Respondents: Mrs.M.E.Raniselvam,
Additional Government Pleader for R1 and R3

Mr.A.Nagarajan for R2

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, this writ petition is taken up for final disposal. Mrs.M.E.Raniselvam, learned Additional Government Pleader appears for the respondents 1 and 3 and Mr.A.Nagarajan, learned Standing Counsel appears for the second respondent.

2. The petitioner claims that he is a resident of Door No.22, Brethapet Road, Vepery, Chennai-7 and he has put up construction at Door No.57/1, Shingannachetty Street, Chennai-2, on a site admeasuring to an extent of 350 sq.ft., which was purchased by him through registered Sale Deed dated 17.08.2016. The petitioner would further submit that in the light of the fact that the land is only 350 sq.ft., question of planning permission does not arise at all and however, he has submitted an application to the second respondent for approval and it is still pending. The petitioner would further submit that on account of urgent need, he has put up construction consisting of Ground + First Floor and after finishing the same, he started occupying it from January 2017. The petitioner also made minor alterations in the construction and however, to his shock and surprise, Lock and Seal and Demolition Notice has been issued by the third respondent dated 02.11.2016 and the petitioner's premises at Chindatripet has been put up under Lock and Seal by the Corporation of Chennai, on the ground that the construction put up is wholly unauthorized. The petitioner, in response to the Lock and Seal Notice dated 02.11.2016, has also submitted his response/representation dated 05.11.2017, requesting them to de-seal the property so as to enable him to rectify/restore the property. Challenging the legality of the Lock and Seal Notice dated 02.11.2016, the petitioner has come forward with this writ petition.

3. When the matter was listed on 13.12.2017, the learned counsel appearing for the petitioner, after advancing arguments for some time, prayed for leave of this Court to file additional affidavit undertaking to demolish the offending construction completely and thereafter apply for planning permission and depending upon the result of the same, would put up new construction, strictly in accordance with law and therefore, recording his submission, this Court directed the listing of the matter on 15.12.2017 under the caption "For Orders". When the matter is listed today, the petitioner has filed an additional affidavit dated 14.12.2017 and it is relevant to extract Para No.4 of the said affidavit:

"4. I hereby undertake before this Hon'ble Court that I would demolish the existing unauthorised

superstructure i.e., the building situated in the above subject Writ Petition and apply before the Corporation authorities for Planning Permission which the said authorities may consider and grant plan permission for the proposed construction. I hereby ensure that the debris is removed without any rubble."

4. 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 third respondent to remove the Lock and Seal put up on the premises at Door No.57/1, Singanna Chetty Street, Chindatripet, Chennai-600002, within a period of one week from the date of receipt of a copy of this order and upon getting possession, the petitioner shall demolish the entire superstructure within a period of four weeks thereafter and he is also at liberty to apply for planning permission to the concerned authority and if it entertained and permission is granted, he shall put up construction strictly in accordance with law. It is made clear that the petitioner, under the guise of this order, cannot use the premises in any manner and carry out the directions issued by this Court as above and if any violation/infracton, cost and consequences on account of violation would follow.

5. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-viii)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.

2.The Principal Secretary /
The Commissioner,
Chennai Corporation, Ripon Buildings,
Chennai-600 003.

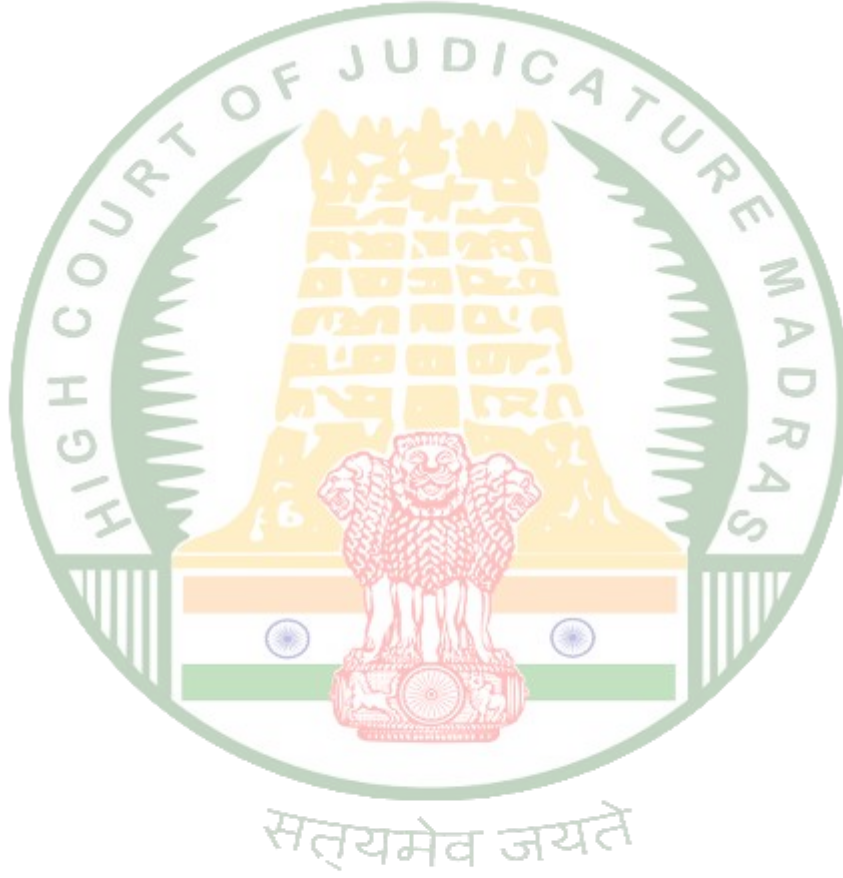
3.The Assistant Executive Engineer,
Zone-V, Chintadripet Division,
Chennai-600 002.

+1cc to Mr.K.RAMACHANDRAN, Advocate, S.R.No. 90659

+1cc to the Government Pleader, S.R.No. 91449

W.P.No.32417 of 2017

TR(08/01/2018)



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