

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:15.12.2017
CORAM:
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI
W.P.No.32525 of 2017 and
WMP.Nos.35854 & 35855 of 2017

1.M.Shaik Dawood
2.M.Usman Ali

.. Petitioner

Vs

- 1.The State rep.by
its Secretary to Government,
Department of Housing and Urban Development,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai-600 009.
- 2.The Executive Engineer,
Zone X, Greater Chennai Corporation,
No.117, NSK Salai,
Kodambakkam,
Chennai-600 024.
- .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing forbearing the 2nd respondent herein from locking and sealing the premises of the petitioners situate at Old Door No.95, Usman Road (New No.1, Ranganathan Street), T.Nagar, Chennai-17, pursuant to the notice bearing No.Z.O.X.C.No.00300/2017 dated 24.11.2017 issued by him, till the appeal filed by the petitioners before 1st respondent under Section 80 A of the Tamil Nadu Town and Country Planning Act, 1971 is decided on merits and in accordance with law.

For Petitioner : Mr.AR.L.Sundaresan, SC
For Respondents: Mr.M.Digvijaya pandian, AGP for R1
Mr.A.Nagarajan for R2

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.M.Digvijaya pandian, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and

Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the 2nd respondent.

2. The petitioner claims that they are the absolute owner of the property situated at Old Door No.95, Usman Road (New No.1 Ranganathan Street) T.Nagar, Chennai-17. The petitioners have applied for demolition and reconstruction of the premises and necessary planning permission also been granted to them under Ref.No.ZO.X.C.No.A8/2473/2013 dated 19.08.2015. The revised plan has also been obtained by them on 16.02.2016 and the construction was completed in the year 2014 and it was strictly in accordance with approved plan.

3. The petitioners as per the plan have put up Ground Floor + One floor for commercial use and as far as 1st Floor is concerned, construction for a Store has also been approved in the front side. However, no pucca construction has been put up. The 2nd respondent, vide notice dated 10.06.2017 alleging that the inspection of the premises was done on 08.06.2017, called upon to produce the approved plan and it was followed by notice dated 24.11.2017 alleging that there is a deviated and unauthorized construction to the extent of 32.04 sq.meters in the ground floor. According to the petitioners, it is not a deviated construction and it is only a temporary shed and challenging the same, they also filed appeal / special revision under Section 80 A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent on 04.12.2017 and pending disposal of the same, also sought for the stay of the said notice. However, neither the stay petition nor the main appeal for revision has been taken for hearing and in the interregnum, the petitioners apprehending that the premises in question is likely to be put under the lock and seal by the 2nd respondent, came forward to file this writ petition.

4. Mr.AR.L.Sundaresan, learned Senior counsel assisted by Ms.A.L.Gandhimathi, learned counsel appearing for the petitioners has drawn the attention of this Court to the typed set of documents and would submit that since, the stay petition/appeal dated 04.12.2017 has been filed praying for appropriate orders directing the 1st respondent to pass orders either in the stay petition or in the main petition at early date, till such time, prays for appropriate direction forbearing the 2nd respondent from proceeding further in terms of Locking and Sealing and Demolition notice.

5. This Court heard the submissions and also perused the materials placed before it.

6. Though, the petitioners pray for 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

petitioners, direct the 1st respondent to entertain the special revision petition/appeal dated 04.12.2017, if the papers are otherwise in order and either the 1st respondent or delegated officials shall take up the petition for stay at first instance and give a disposal in accordance with law within a period of four weeks from the date of receipt of a copy of this order and the said officials is also at liberty to take up the special revision / appeal itself and give a disposal on merits and in accordance with law within a period of twelve weeks thereafter and communicate the decision taken to the petitioner. The 2nd respondent till the disposal of the petition for stay by the 1st respondent, shall defer further decision in respect of Locking and Sealing and Demolition notice dated 24.11.2017. It is also made clear that till the disposal of the representation, the petitioner shall not create any third party right in respect of the superstructure in question and shall not alter the physical features also.

7. The writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Executive Engineer,
Zone X, Greater Chennai Corporation,
No.117, NSK Salai,
Kodambakkam,
Chennai-600 024.

+1 cc to the Govt Pleader sr 90616
+1 cc to Mr.A.L.Ganthimathi Advocate sr 90146
+1 cc to Mr.A.Nagarajan Advocate sr 89786

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