

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.Nos.22138 to 22140/2017 & WMP.Nos.23176 to 23178/2017

B.N.Harish Kumar .. Petitioner in
WP.No.22138/2017

B.N.Pramod Kumar ... Petitioner in
WP.No.22139/2017

B.N.Chethan Kumar ... Petitioner in
WP.No.22140/2017

Versus

1. Government of Tamil Nadu
rep.by its Secretary to Government
Housing and Urban Development Department
Fort St George, Chennai 600 009.

2. The Corporation of Chennai
rep.by its Commissioner
Rippon Buildings, Chennai 600 003.

3. The Executive Engineer
Enforcement-Region Central
2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

.. Respondents in
all Wps.

Common Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and de-occupation with regard to Flats A, B and C in the building put up at No.51 [Old No.33], Block No.55, Plot No.B, Balamman Koil St., Villivakkam, Chennai 600049 under the Town and Country Plannint Act, till the disposal of the appeal petition dated 04.07.2017 filed before the 1st respondent on

10.07.2017 under section 80-A of the Tamil Nadu Town and Country Planning Act.

For Petitioners in
all WPs : Mr.A.V.Ezhilarasu

For R1 in all WPs : Mr.P.Sanjay Gandhi, AGP

For RR2&3 in
all WPs : Mr.A.Arunmozhi

COMMON ORDER

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

By consent, the writ petitions are taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.A.Arunmozhi, learned Standing counsel accepts notice on behalf of the respondents 2 and 3 in the above writ petitions.

2 The grievance expressed by the learned counsel for the petitioners is that despite pendency of the appeal petition filed by the petitioners under section 80-A of the Tamil Nadu of the Town and Country Planning Act, 1971, before the 1st respondent, precipitative action is being taken. The petitioners in the affidavit filed in support of these writ petitions would aver among other things that they have been accorded with sanctioned plan to put up stlit, First, Second and Terrace floors and while carrying out the construction, some minor deviations have taken place in the form of putting up of staircases.

3 The learned counsel for the petitioners would submit that the said deviations, if any, is within the condonable limits and challenging the impugned lock and seal and de-occupation notice, they have also filed a appeal under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent on 04.07.2017 and pending disposal of the same, also moved for interim orders under section 80-A [iii] of the said Act and despite the same, the 3rd respondent is proceeding further to demolish the superstructure and since it is a residential premises, in the event of demolition, the petitioners and their family, will be put to grave hardship and hence, the petitioners came forward to file the above writ petitions.

4 The Court heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the 1st

respondent and Mr.A.Arunmozhi, learned standing counsel appearing for the respondents 2 and 3.

5 Though the petitioners pray 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 petitioners either in their appeal petition or in these writ petitions, directs the 1st respondent to entertain the appeal, if the papers are otherwise in order and the said official is at option, either to take up the petition for stay and give a disposal in accordance with law within a period of two weeks from the date of receipt of a copy of this order or the main appeal itself and give a disposal in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The respondents 2 and 3, till the disposal of the petition for stay filed by the petitioner herein, shall defer further decision in pursuant to the impugned Lock and Seal and De-occupation Notices dated 06.08.2016 and 21.04.2017 respectively.

6 The writ petitions stand disposed of with the above observations and direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

AP

To

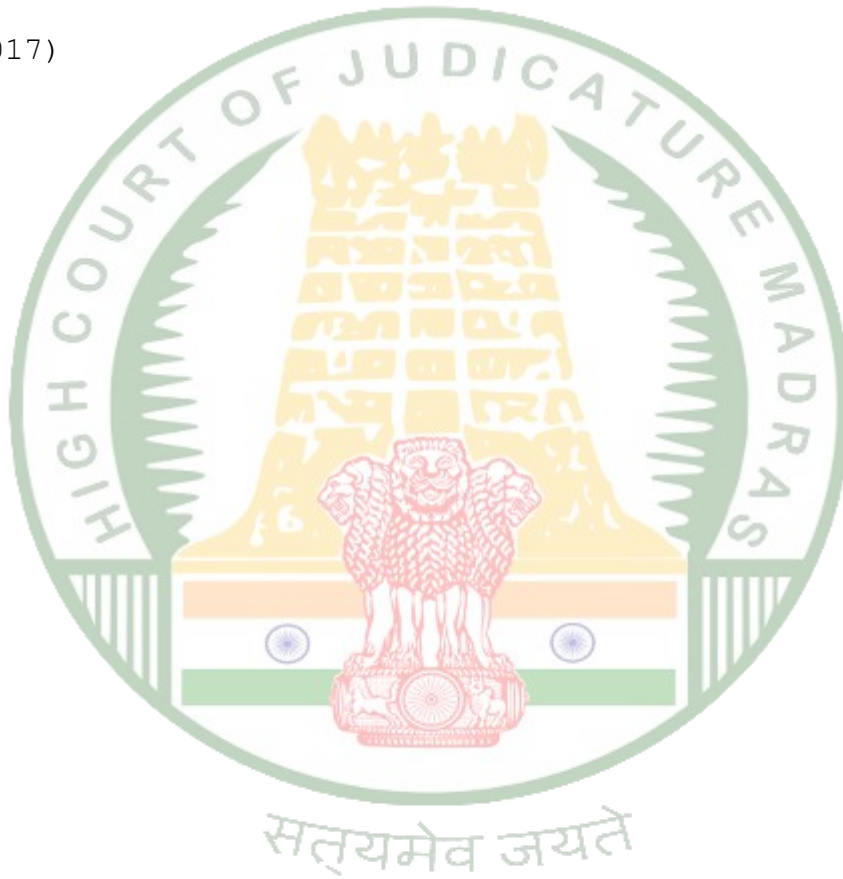
1. The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Fort St George, Chennai 600 009.
2. The Commissioner,
Corporation of Chennai
Rippon Buildings, Chennai 600 003.

3. The Executive Engineer
Enforcement-Region Central
2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

+1cc to M/S.R.Arunmozhi, Advocate Sr. 59876
+1cc to the Government Pleader Sr. 60229

WP.Nos.22138 to 22140/2017

NM(CO)
VR(28/8/2017)



WEB COPY