

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
WP No.32836/2017 & WMP.No.36185/2017

V.Ramkumar

..

Petitioner

Vs

- 1.The Secretary
Government of Tamil Nadu
Housing & Urban Development Department
Fort St George, Chennai 600009.
- 2.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.
- 3.The Executive Engineer
Zone VII, Corporation of Chennai
No.536, Chennai Tiruvallur Highway Road
Ambattur, Chennai 600 053.
- 4.The Assistant Executive Engineer
Zone VII, Unit 18, Corporation of Chennai
No.536, Chennai Tiruvallur Highway Road
Ambattur, Chennai 600 053.
- 5.The Junior Engineer
Zone VII, Division No.82
Corporation of Chennai
Ambattur, Chennai 600 053.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records in respect of the order in Notice No.Z.O.VII.C.No./00387/2017 dated 07.12.2017 issued by the respondents 3 to 5 and quash the same and further, direct the 1st respondent to consider and dispose of the petitioner's appeal dated 21.09.2016 pending before them.

For petitioner	: Mr.T.Velumani
For R1	: Mr.A.N.Thambidurai, Spl.GP
For R2 to R5	: Mr.A.Nagarajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mr.A.Nagarajan, learned Standing Counsel accepts notice on behalf of the respondents 2 to 5.

2 The petitioner would state that he had purchased Plot No.8 admeasuring to an extent of 3274 sq.ft., comprised in S.No.660, Theeppachiamman Nagar, Korattur Village, Ambattur Taluk, through a registered Sale Deed dated 03.08.2011 bearing Doc.No.3138/2011, which forms part of an approved layout in PP.No.2014/2005 dated 09.12.2005 and BA.No.1010/2005/F2 dated 16.11.2005. The petitioner would state that he is running a very Small Scale Industrial Unit, manufacturing wooden furnitures and also registered with the Government of Tamil Nadu as a SSI Unit bearing No.42017/Part II and is also running a factory and office in the said premises. The 3rd respondent, on an earlier occasion, had issued a notice dated 22.01.2013 - Stop Work Notice / Notice calling for approved plan and it is also followed by the De-Occupation Notice dated 03.06.2014 for which the petitioner has submitted his objection dated 18.06.2014 and since it was not considered, the petitioner filed WP.No.16598/2014 on the file of this Court and vide order dated 26.06.2014, a Division Bench of this Court has directed the 3rd respondent, viz., the Assistant Executive Engineer, Enforcement Cell, Greater Corporation of Chennai, Shenoy Nagar, Chennai, to consider and pass appropriate orders on the reply dated 18.06.2014 on merits and in accordance with law within the stipulated time and it is the case of the petitioner that he has also applied for fresh plan and retention of the premises. The Regional Deputy Commissioner [Central], in compliance of the order passed in WP.No.16598/2014 [cited supra] has disposed of the petitioner's representation, stating that the Enforcement action taken by the officials of the Corporation of Chennai holds good and rejected the representation of the petitioner. The petitioner challenging the original Locking and Sealing and Demolition Notice dated 08.03.2013, has filed an appeal/special revision dated 21.09.2016 u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, and pending disposal of the same, has also filed a petition for stay u/s.80-A[iii] of the said Act and the said appeal has been entertained and pending on the file of the 1st respondent. The petitioner would further state that the 3rd respondent has issued the impugned De-Occupation Notice dated 07.12.2017 calling upon the petitioner to discontinue the occupation within seven days from the date of receipt of the

said notice, failing which, further action will be taken under the Provisions of Tamil Nadu Town and Country Planning Act, 1971, and challenging the legality of the same, the petitioner came forward to file this writ petition.

3 Mr.T.Velumani, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the petitioner on an earlier occasion filed civil suit in OS.No.194/2014 to declare the notice issued by the Executive Engineer as null and void and the said suit was dismissed as withdrawn and the appeal is pending before the Sub Court, Poonnamallee, without any interim orders. It is a primordial submission of the learned counsel appearing for the petitioner that the present impugned notice is the continuation of the earlier Locking and Sealing and Demolition notice dated 18.03.2013, which is the subject matter of challenge before the 1st respondent in the form of Special Revision / appeal and since the petitioner also filed petition for stay, it is yet to be given disposal and prays for appropriate direction, directing the 1st respondent to dispose the petition for stay at the earliest, so that his possession of the premises will be protected.

4 Per contra, Mr.A.Nagarajan, learned Standing counsel appearing for the Corporation of Chennai would submit that admittedly, the petitioner has failed to get any interim orders pending disposal of the appeal/special revision and as such, it is open to the Greater Corporation of Chennai to proceed further and admittedly, the petitioner without obtaining any planning permission, has put up the premises which is purely used for commercial purposes and as such, the petitioner is not entitled to get any indulgence from this Court and prays for dismissal of this writ petition.

5 Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the 1st respondent would submit that this Court may issue appropriate direction, directing the said official to dispose of the appeal/special revision at an early date.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 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 either in the special revision/appeal or in this writ petition, directs the 1st respondent to take up the petition for stay filed along with the special revision/appeal dated 21.09.2016 and give a disposal in accordance with law within a period of three weeks from the date of receipt of a copy of this order and till such time, the respondents 2 to 4 shall defer

further decision in terms of the impugned notice dated 07.12.2017. It is also open to the 1st respondent or the delegated officials to take up the main revision / appeal and give a disposal on merits and in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. It is also made clear that till the disposal of the appeal/special revision pending on the file of the 1st respondent, the petitioner shall not create any third party rights in respect of the superstructure in question and shall also not alter the physical features of the same.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AP
To

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Ambattur, Chennai 600 053.
- +1 cc to the Government Pleader sr 90859
+1 cc to M/s.A.Nagaraja Advocate sr 89788
+1 cc to M/s.T.Velumani Advocate sr 89725

WP No.32836/2017

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