

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.33406/2017 & WMP.Nos.36888 & 36889/2017

P.David Masilamani

..

Petitioner

Vs

- 1.The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development
Department, Secretariat,
Fort St George, Chennai 600 009.
- 2.The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
Gandhi Irwin Road, Egmore
Chennai 600 008.
- 3.The Executive Officer
Ullagaram Puzhuthivakkam
Third Grade Municipality
Chennai 600 091.
- 4.The Assistant Engineer
Div-169, Greater Chennai Corporation Zonal Office,
Puzhuthivakkam, Chennai 600 091.
- 5.The Assistant Executive Engineer
Unit 42, Greater Chennai Corporation,
Zonal Office, Puzhuthivakkam, Chennai 600 091.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records of the 4th and 5th respondents pertaining to the proceedings vide Notice No.14/00017/2017 dated 14.11.2017 under section 56[1] and 57 read with 85 of Town and Country Planning Act, 1971 [as amended by Act 61 of 2008] and quash the same.

For Petitioner : Mr.Sankar Ramasamy
 For R1 & R3 : Mr.A.N.Thambidurai, Spl.GP
 For R2 : Mr.A.Kumar
 For R5 & R5 : Mr.K.Soundararajan

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 respondents 1 and 3 ; Mr.A.Kumar, learned Standing counsel accepts notice on behalf of the 2nd respondent and Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the respondents 4 and 5.

2 The petitioner, in the affidavit filed in support of this writ petition would aver among other thing that he is the absolute owner of the land/site admeasuring to an extent of 1620 sq.ft., bearing Plot No.7, Patta No.10410, New Survey No.54/8C and he has also obtained

Planning Permission Approval No.PPA.No.239/08-09 dated 14.10.2008 and the respondents 2 and 3 had also granted Building Approval No.683/2008 dated 14.10.2008. The daughter of the petitioner had started construction on the said site as per the approved plan and it was stopped due to lack of funds and the petitioner, some time thereafter, started the construction work and completed the Ground Floor alone measuring to an extent of 720 sq.ft., and also left open space in front of his house as well as the surrounding area and at the time of construction, the approved plan was affixed on the site and however, after the completion of the construction, the same was removed. The petitioner would further aver that to his shock and surprise, he was issued with the stop work notice dated 02.08.2017 / notice calling upon the petitioner to furnish the approved plan by the 5th respondent and in response to the same, the petitioner had submitted a representation dated 23.11.2017 pointing out the above facts.

3 The learned counsel for the petitioner would submit that though the said representation was received and acknowledged by the concerned official of the Greater Corporation of Chennai, steps are being taken to demolish the superstructure on the ground that it is in

deviation of the sanctioned plan and therefore, the petitioner is constrained to approach this Court, by filing the present writ petition.

4 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 3 ; Mr.A.Kumar, learned standing counsel appearing for the 2nd respondent and Mr.K.Soundararajan, learned standing counsel appearing for the respondents 4 and 5 and also perused the materials placed before it.

5 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 5th respondent to consider the representation dated 23.11.2017 submitted by the petitioner and before doing so, shall afford an opportunity of personal hearing either to the petitioner or to his authorised representative and thereafter, dispose of the said representation on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The respondents 4 and 5, till the disposal of the representation submitted by the petitioner,

shall defer further decision in terms of the impugned notice dated 14.11.2017. It is also made clear that the petitioner, till the disposal of the representation, shall not create any third party rights in respect of the site and superstructure in question and shall also not alter the physical features of the same, except in accordance with the sanctioned plan and building permit.

6 The writ petition stands disposed of with the above direction. No costs.

[M.S.N., J] [S.P.I., J]
21.12.2017

Internet : Yes
AP
To

- 1.The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development
Department, Secretariat, Fort St George, Chennai 600 009.
- 2.The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
Gandhi Irwin Road, Egmore, Chennai 600 008.
- 3.The Executive Officer
Ullagaram Puzhuthivakkam
Third Grade Municipality, Chennai 600 091.
- 4.The Assistant Engineer
Div-169, Greater Chennai Corporation Zonal Office,
Puzhuthivakkam, Chennai 600 091.
- 5.The Assistant Executive Engineer
Unit 42, Greater Chennai Corporation,
Zonal Office, Puzhuthivakkam, Chennai 600 091.

M.SATHYANARAYANAN.,J.,
and
SATRUGHANA PUJAHARI.,J.,

AP



WP No.33406/2017

WEB COPY

21.12.2017