

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
And
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.23179 of 2017
and WMP.No.24281 of 2017

R.Senthil

..Petitioner

vs.

1. Assistant Director,
Town and Country Planning,
Villupuram Division,
Villupuram, Villupuram District.
2. The Member Secretary,
Department of Town and Country Planning,
Egmore, Chennai-600 008.
3. The Secretary,
Housing and Town and Country Planning,
Secretariat, Fort St.George,
Chennai-600 009.

..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 of the notice in Form-II as per the Tamil Nadu Town and Panchayat Act, 1971, Sections 56 and 57 and quash the same in Notice Na.Ka.No.125/2015/VM dated 14.07.2017 issued by the first respondent and further forbear the first respondent from disturbing the petitioner's property and to take action against the petitioner.

For Petitioner :M/s.T.G.V.Aravinthan

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

Mr.A.Kumar 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.

2. The petitioner, challenging the legality of the notice dated 14.07.2017 issued by the first respondent, came forward to file this writ petition. It is relevant to extract the building plan approval and the deviated construction:

Main Building No.1	433.91 Sq.mts
Additional Building No.2	26.60 Sq.mts
Total	461.51 Sq.Mts (or) 462 Sq.Mts

Main Building No.1	Area (Sq.Mtrs)
Stilt	433.91
First Floor	433.91
Second Floor	60.00
Additional Building No.2	
Stilt	27.60
First Floor	27.60
Total	983.02 Sq.Mtrs

The petitioner, in response to the said notice, through his lawyer, has issued a notice under Section 80 of the Civil Procedure Code to the first respondent by enclosing the certificates and despite receipt and acknowledgment, he is yet to be favoured with any kind of response and apprehending lock and seal, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner would submit that the deviation is only minimal in nature, which is within the condonable limits and he may be permitted to submit a representation explaining the remedial measures to set right the deviated construction or go for planning permission with regard to addition construction, in the event of the same falling within the condonable limit. Attention of this Court was also invited to the Planning Permission granted by the Irumbai Panchayat Union.

4. This Court heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.A.Kumar, learned Standing Counsel

appearing for the Member Secretary, Chennai Metropolitan Development Authority, Egmore, Chennai.

5. Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances, permits the petitioner to submit a representation/necessary application to the first respondent, explaining as to the steps taken to set right the building within the ambit of the planning permission or any other course open to him under law by enclosing relevant authenticated documents within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the first respondent is directed to consider the same and pass orders on merits and in accordance with law within a period of four weeks thereafter and communicate the decision taken, to the petitioner and till such time, the respondents shall defer further decision in terms of the impugned notice dated 14.07.2017. It is made clear that till the disposal of the representation/application to be submitted by the petitioner, the petitioner shall not create any third party rights in respect of the property in question and shall not later it's physical features also.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

jvm

To

1. Assistant Director,
Town and Country Planning,
Villupuram Division,
Villupuram, Villupuram District.
2. The Secretary,
Housing and Town and Country Planning,
Secretariat, Fort St.George,
Chennai-600 009.

+1 CC to Govt. Pleader sr 80935.
+1 CC to Mr.T.C.V. Aravinathan, Advocate sr 81354.
+1 CC to Mr.A. Kumar, advocate sr 81030.

W.P.No.23179 of 2017

SP(06/12/2017)



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