

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.23446/2017 & WMP.No.24625/2017

L.N.Rajagopalan

.. Petitioner

Versus

1. The Zonal Executive Engineer
Corporation Zone-IX, Greater Chennai
Corporation Zonal Office, No.1, Lake
Area, 4th Cross Street, Nungambakkam
Chennai 600 034.
2. The Assistant Executive Engineer
Unit 25, Corporation Zone-IX,
Greater Chennai Corporation Zonal Office,
No.1, Lake Area, 4th Cross Street,
Nungambakkam
Chennai 600 034.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to receive the application under section 49 of the Town and Country Planning Act, 1971, together with the modified plan for retention of the building in Flat No.S-2, Vaikuntam Flats, bearing Door No.34/51, Solaiappan Street, Mylapore, Chennai-600 004 and pass appropriate orders in accordance with law.

For Petitioner : Mr.T.K.S.Gandhi

For Respondents : Mr.A.Nagarajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the respondents.

2. The petitioner would state that he along with his wife are the joint owners of Flat No.S-2, Vaikuntam Flats, Door No.34/51, Solaiappan Street, Mylapore, Chennai-600 004, admeasuring to an extent of 1046 sq.ft., together with an undivided share of 450 sq.ft., of land comprised in S.No.2974/2 and 2974/3, admeasuring to an extent of 2704.28 sq.ft., bearing RS.No.2974/2 and 2974/3, Mylapore and it was purchased from one C.Revathi @ Gowri Chandrasekaran, owner of the land and M/s.Geeyam Builders, through a registered Sale Deed bearing Document No.2816/2014 dated 15.09.2014, registered on the file of the Sub Registrar, Mylapore. The petitioner would further state that he along with his wife had also entered into a Construction Agreement dated 15.09.2014 and after the purchase, the Flat was handed over to him and it is also subjected to statutory levies and it has also been provided with electricity service connection as well as water and sewerage connection. The petitioner also avers that it is an ordinary building consisting of stilt, Ground and First Floors consisting of six units and to the shock and surprise, he and the other flat owners received Stop Work notice dated 23.06.2017 from the 2nd respondent alleging deviations in the stilt floor and OTS area. The petitioner and the other owners, immediately contacted the Builder, who had informed them that the lift and staircase to be built on the Northern side, has been constructed on the Southern side and the first floor OTS areas was reduced as the neighbour had objected to the same. The petitioner, in order to retain the said construction with the said deviations, which are minor and minimal in nature, submitted a representation/application dated 24.07.2017 under section 49 of the Tamil Nadu Town and Country Planning Act, 1971, to the 2nd respondent and though it was received and acknowledged on the same day, no orders have been passed thereafter and apprehending Lock and Seal and De-Occupation Notice, the petitioner is constrained to approach this Court, by filing the present writ petition.

3. Heard the submissions of the learned counsel for the petitioner and Mr.A.Nagarajan, learned Standing Counsel appearing for the respondents, who would submit that if the representation/application is maintainable, it will be given disposal in accordance with law at an early date.

4. 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 1st respondent to entertain the application / representation dated 24.04.2017, if the papers are otherwise in order and thereafter, pass orders 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 and till such time, shall defer further

decision in terms of the Stop Work Notice dated 23.06.2017.

5. It is also made clear that till the 1st respondent passes order, the petitioner and his wife shall not create any third party right in respect of the undivided share of the Flat in question and shall also not alter the physical features of the Flat in question.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

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Unit 25, Corporation Zone-IX,
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No.1, Lake Area, 4th Cross Street, Nungambakkam
Chennai 600 034.

+1cc to Mr.T.K.S.Gandhi, Advocate, S.R.No.62794
+1cc to Mr.A.Nagarajan, Advocate, S.R.No.63302

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AR(CS IV)
CS/20/09/17