

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.24118/2017 & WMP.Nos.25465 & 25466/2017

1.R.Durai Babu
2.R.Balaji

Petitioners

Versus

1.The Secretary to Government
Housing and Urban Development
Department, Fort St George
Chennai.

2.The Assistant Executive Engineer,
Zone-VII, Division 92,
Greater Chennai Corporation
Zone-VII Office, Ambattur,
Chennai.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent herein to dispose of the petitioner's stay petition and the appeal filed under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, as against the order of the 2nd respondent dated 11.05.2017 in Notice No.2395/Zone VII/Division 92/081/2017 within a time frame to be fixed by this Court.

For Petitioners: Mr.S.Senthil

For R1 : Mr.P.Sanjay Gandhi, AGP

For R2 : 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.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the 2nd respondent.

2 The petitioners claim that they are the owners of the premises bearing Plot No.24, First Street, Spartan Nagar, Mogappair East, Chennai - 37 and they claim to have purchased the said property through a registered Sale Deed bearing Document No.1386/2003 dated 27.03.2003, registered on the file of the office of the Sub Registrar, Konnur. The petitioners had also applied for planning permission for putting up a residential house and it was accorded in BA/WDC/01968/2015 dated 07.05.2015 and they further claim that pursuant to the Building or Planning Permission, they are putting up the construction. The 2nd respondent / Corporation has also accorded Building Plan Approval on 07.05.2015 to construct Stilt + 2 Floors. The petitioners would aver that his neighbour Mr.R.Ramachander, having residence at Plot No.6 of the same locality, with an oblique and mala fide motive, filed WP.No.16027/2017 against the Corporation of Chennai, Chennai Metropolitan Water Supply and Sewage Board as well as against the petitioners herein, praying for issuance of a writ of mandamus, directing the respondents 1 to 3 therein, to demolish the deviated and unauthorized construction put up by the private respondents therein / writ petitioners herein and take action in accordance with the relevant provisions of the Town and Country Planning Act, 1971. The respondents 6 and 7 / writ petitioners herein had filed their counter affidavit, refuting the allegations.

3 The petitioners herein, pendency of the said writ petition, had received the Stop Work Notice dated 04.05.2017 from the 2nd respondent and challenging the same, they filed a special revision under section 80-A of the Town and Country Planning Act, 1971, before the 1st respondent and along with the revision, filed a petition for stay under section 80-A[3] of the said Act.

4 The learned counsel for the petitioners would submit that though the revision along with the stay petition were filed during July 2017, no communication has been received as to the

entertainment of the said revision and in the interregnum, the 2nd respondent is proceeding further. It is the submission of the learned counsel for the petitioners that the petitioners had also removed the deviated portion and there are only minor deviations exist and that too, are condonable and therefore, prays for early disposal of the stay petition as well as the main revision itself.

5 The Court heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the 1st respondent and Mr.A.Nagarajan, learned Standing counsel appearing for the 2nd respondent and perused the materials placed before it.

6 Though the petitioners had prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the 1st respondent to entertain the revision as well as the stay petition, if the papers are otherwise in order and after putting Mr.R.Ramachander, S/o.Sri.R.Rajagopal, Plot No.6, Spartan Nagar, Mogappair East, Chennai 600 037, on notice, may take up either the petition for stay or the main revision itself and give a disposal on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners as well as Tr.R.Ramachander and the 2nd respondent, till the disposal of the petition for stay, shall defer further proceedings in terms of the impugned notice dated 11.05.2017. It is also made clear that the petitioners, till the disposal the revision petition, shall not put any further additional construction or alter the physical features of the superstructure.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

AP

To

1.The Secretary to Government
Housing and Urban Development
Department, Fort St George
Chennai.

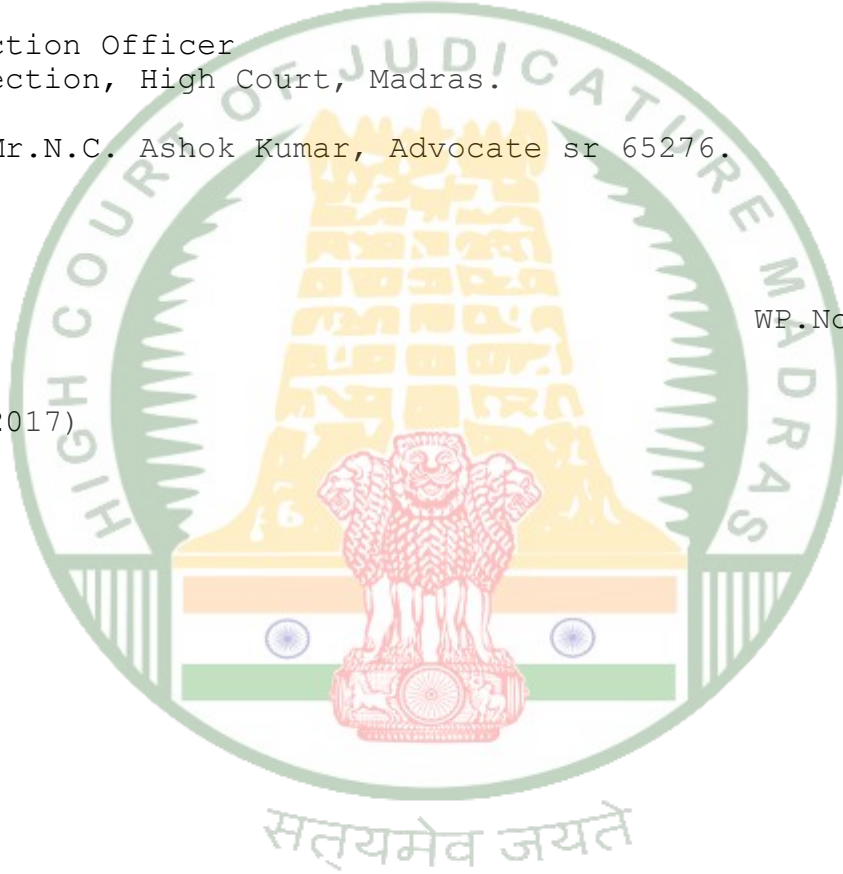
2.The Assistant Executive Engineer,
Zone-VII, Division 92,
Greater Chennai Corporation
Zone-VII Office, Ambattur,
Chennai.

3. The Section Officer
Writ Section, High Court, Madras.

+1 Cc to Mr.N.C. Ashok Kumar, Advocate sr 65276.

WP.No.24118/2017

KK(CO)
sp(26/09/2017)



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