

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.24278/2017

V.T.Ramakrishnan

.. Petitioner

Versus

1.The Secretary to the Government,
Secretariat,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 001.

3.The Regional Deputy Commissioner (North),
Greater Chennai Corporation,
61, Basin Bridge Road,
Old Washermenpet,
Chennai-600 021.

4.The Executive Engineer Zone V,
Greater Corporation of Chennai,
Royapuram, Chennai.

5.The Assistant Executive Engineer,
Division-57, Unit 13, Zone V,
Greater Chennai Corporation,
Park Town, Chennai-600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 4th respondent herein to remove the lock and seal put up in the petitioner's building bearing Old No.190, New No.12, Anna Pillai Street, Kothavalchavadi, George Town, Sowcarpet, Chennai-600 001, measuring an extent of 920 sq.ft., to enable the petitioner to rectify the deviations and remove unauthorized constructions put up in the building.

For Petitioner
For Respondents

:Mr.R.Manickavel
:Mr.P.Sanjai Gandhi, AGP for R1
Mr.K.Soundararajan for R2 to R5

ORDER

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

By consent, the writ petition is taken up for final disposal.

2. The petitioner is the owner of the land and superstructure bearing Old No.190, New No.12, Anna Pillai Street, Kothavalchavadi, George Town, Sowcarpet, Chennai-600 001, measuring an extent of 920 sq.ft., and it is more than 100 years old.

3. The petitioner would further aver that they took a decision to demolish the old building and accordingly, applied for a sanctioned plan for the demolition of the old structure and construction of a new building on the site. It was accorded by the 2nd respondent vide PPA No.PPA/WDCN05/01955/2015 dated 01.04.2016 and as per the approval, the petitioner decided to construct ground, first and second floors. The petitioner would further state that the demolition of the building was completed during the month of November 2015 and thereafter, construction was put up and it was completed during April 2016. It is the specific case of the petitioner that since the property lies in the street house area, it is not obligatory to leave side set back. However to the shock and surprise, he has been issued with the locking, sealing and demolition notice dated 01.12.2016. The petitioner filed WP.No.5647 of 2017 against the respondents 3 to 5, praying for issuance of writ of mandamus directing the respondents 2 and 3 herein to remove the lock and seal put up in the premises to enable him to rectify the deviations and remove unauthorized constructions put up in the said building and it was disposed of on 07.03.2017, directing the concerned respondents to consider the representation dated 25.02.2017 submitted by the petitioner in that regard.

4. The petitioner challenging the legality of the lock and seal has also filed Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent and the same is pending.

5. Mr.R.Manickavel, learned counsel appearing for the petitioner would submit that the alleged unauthorized construction is only minimal in nature and the petitioner is ready to set right the same and in accordance with the planning permission. If the said appeal is disposed of at earlier date, the petitioner would undertake the said exercise and prays for appropriate orders.

6. Heard Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for 1st respondent and Mr.K.Soundararajan, learned Standing Counsel appearing for respondents 2 to 5 and perused the materials placed before it.

7. It is relevant to extract deviation / unauthorized construction to pointout the locking, sealing and demolition notice dated 01.12.2016:

Planning parameters	As per plan	As on site	Nature of Deviations
Ground Floor			
Front Set back	4.15m	Nil	Full Deviation
Rear set back	Nil	Nil	nil
Side set back 1	Nil	Nil	nil
Side set back 2	Nil	Nil	nil
Stilt floor area (car parking)	37.99 sqm	Nil	nil
Ground floor area	16.24	84.35	68.11 sqm
First Floor			
Front Set back	4.15m	Nil	Full deviation
Rear set back	Nil	Nil	Nil
Side set back 1	Nil	Nil	Nil
Side set back 2	Nil	Nil	Nil
Floor area	47.44 sqm	84.35 sqm	36.91 sqm
Second Floor			
Front set back	4.15m	Nil	Full deviation
Rear set back	Nil	Nil	Nil
Side set back 1	Nil	Nil	Nil
Side set back 2	Nil	Nil	Nil
Floor area	37.99 sqm	84.35 sqm	46.26 sqm
Other Parameters			
Road width	12.70 m	12.70 m	0 m
Overall Height	8.99 m	8.99 m	0 m
Plot area	37.99 sqm	Full deviation	Full deviation

Front Set back	4.15m	Nil	Full Deviation
Total built up area	107.10 m	253.05 m	145.95 m
Splay	Nil	Nil	Nil
FSI	1.49	Nil	Full deviation
Plot coverage	69.57%	100%	30.43%

8. It is a specific case of the petitioner that he has obtained planning permission and the deviation pointed out, is minimal in nature and would submit that in the event of desealment of the premises and ready to do the same and confirm it in accordance with the planning permission.

9. This Court, in the light of the above submission made by the petitioner and without going into the merits of the case, directs the 1st respondent to entertain the Appeal petition dated 01.09.2017 filed by the petitioner, if the papers are otherwise in order and dispose of the same 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.

10. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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TO

1.The Secretary to the Government,
Secretariat,
Housing and Urban Development Department,
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Chennai-600 009.

2.The Commissioner,
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5.The Assistant Executive Engineer,
Division-57, Unit 13, Zone V,
Greater Chennai Corporation,
Park Town, Chennai-600 001.

+ 2 ccs to MR.R. Manickavel, Advocate Sr.65586, 85694
+ 1 cc to K. Soundararajan, Advocate Sr.65802
+ 1 cc to Government Pleader SR.66243

WP.No.24278/2017

CS-IV
Eu 15.09.17



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