

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.24933/2017 & WMP.No.26311/2017

H.Mahendra Kumar

..

Petitioner

Versus

- 1 The State of Tamil Nadu
rep.by its Secretary to State,
Housing & Urban Development
Department, Fort St. George
Chennai 600 009.
 - 2 The Commissioner
Greater Chennai Corporation
Rippon Buildings
Chennai.
 - 3 The Executive Engineer,
Greater Chennai Corporation
Zone-V, No.61, Basin Bridge Road
Chennai 600 021.
- .. 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 to
dispose of the revision petition filed by the petitioner herein on 28.12.2016

on merits and in accordance with law and further forbear the 2nd and 3rd respondents from initiating any further proceedings pursuant to the locking and sealing and Demolition Notice issued by the 3rd respondent in Letter No./Enf.Dn.59/151/2016 dated 16.11.2016 pending disposal of the Revision Petition dated 28.12.2016 before the 1st respondent herein.

For Petitioner : Mr.K.Ramachandran

For R1 : Mr.R.Vijayakumar, AGP

For RR2&3 : 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.R.Vijayakumar, 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 respondents 2 and 3.

2 It is the case of the petitioner that in terms of the Planning Permission issued by the Corporation of Chennai, vide proceedings No.PPA/WDC05/04899/2015 dated 28.10.2015 and also Building Permit vide proceedings in BA/WDC05/04571/2015 dated 28.10.2015, he had put up the construction and there are some minor deviations for which, the 3rd

respondent has issued the Locking and Sealing and Demolition Notice dated 16.11.2016. It is further stated by the petitioner that the deviated portions were also subjected to statutory levies and he made a challenge to the said notice by filing a special revision petition under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent herein, viz., the Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-9, and also filed a petition for stay along with the main revision, which was received and acknowledged on 28.12.2016. Though nearly nine months had lapsed, neither the petition for stay nor the main revision petition is taken up for final disposal and taking advantage of the same, the 3rd respondent is proceeding further to demolish the alleged offending construction and therefore, the is constrained to approach this Court by filing the present writ petition.

3 This Court heard the submissions of the learned counsel appearing for the petitioner ; Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent and Mr.A.Nagarajan, learned Standing counsel appearing for the respondents 2 and 3 and also perused the materials placed before it.

4 It is relevant to extract the deviations / unauthorized construction pointed out in the notice of the 3rd respondent dated 16.11.2016:-

Planning Parameters	As per Plan	As on site	Nature of Deviations
Ground Floor			
Front Set Back	1.53 m	Nil	Full Deviation
Rear Set Back	1.02 m	Nil	Nil
Side Set Back 1	Nil	Nil	Nil
Side Set Back 2	Nil	Nil	Nil
Stilt Floor area [Car Parking]	Nil	Nil	Nil
Ground Floor Area	55.35 sq.m.	141.05 sq.m.	85.70 sq.m.
First Floor			
Front Set Back	1.53 m	Nil	Full Deviation
Rear Set Back	1.02 m	Nil	Nil
Side Set Back 1	Nil	Nil	Nil
Side Set Back 2	Nil	Nil	Nil
Floor Area	105.05 sq.m.	141.05 sq.m.	36 sq.m.
Second Floor			
Front Set Back	1.53 m	Nil	Full Deviation
Rear Set Back	1.02 m	Nil	Nil
Side Set Back 1	Nil	Nil	Nil
Side Set Back 2	Nil	Nil	Nil
Floor Area	50.37 sq.m.	141.05 sq.m.	90.68 sq.m.
Third Floor [Unauthorised]			
Front Set Back	Nil	Nil	Full Deviation
Rear Set Back	Nil	Nil	Nil

<i>Planning Parameters</i>	<i>As per Plan</i>	<i>As on site</i>	<i>Nature of Deviations</i>
Side Set Back 1	Nil	Nil	Nil
Side Set Back 2	Nil	Nil	Nil
Floor Area	0 sq.m.	141.05 sq.m.	141.05 sq.m.
Other Parameters			
Road Width	11.30 m	11.30 m	0 m
Overall Height	8.84 m	11.75 m	3 m
Parking	Nil	Nil	Nil
Total Built up area	219.88 m	564.20 m	344.32 m
Splay	Nil	Nil	Nil
FSI	1.50	Nil	Full Deviation
Plot Coverage	74.48%	100%	25.52%

5 It is also the submission of the learned counsel for the petitioner that the premises is used purely for residential purpose.

6 This Court, taking into consideration, the limited scope of prayer sought for by the petitioner and without going into the merits of the same, directs the 1st respondent to entertain the special revision petition, received and acknowledged on 28.12.2016 along with the petition for stay, if the papers are otherwise in order and the said official is at option, either to take up the petition for stay and give a disposal within a period of two weeks from the date of receipt of a copy of this order or the main revision

itself and give a disposal within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and the respondents 2 and 3, till the disposal of the petition for stay by the 1st respondent, shall defer further decision in terms of the impugned Locking and Sealing and Demolition Notice dated 16.11.2016.

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

[M.S.N., J.] [N.S.S., J.]

19.09.2017

Internet : Yes

NOTE: Issue order copy on 04.10.2017.

AP

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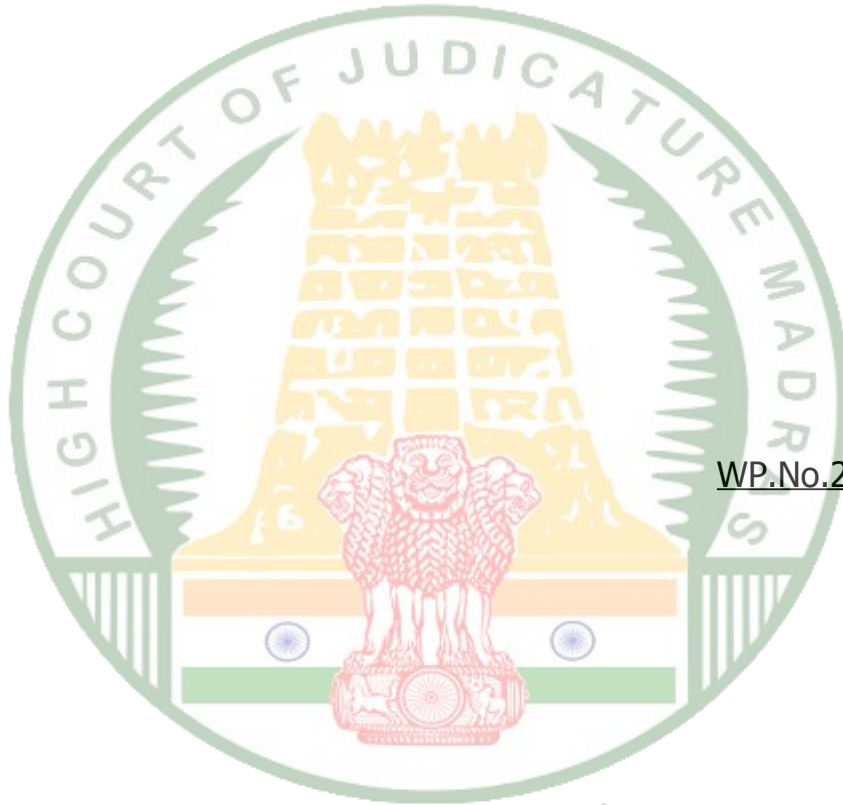
To

- 1 The Secretary to State,
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