

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.25007/2017 & WMP.No.26391/2017

G.K.Abdul Shukkur

..

Petitioner

Versus

1 The Secretary to Government
Housing & Urban Development
Secretariat, Fort St. George
Chennai 600 009.

2 The Executive Engineer,
T.P.Enforcement, Central Region,
Corporation of Chennai
Regional office-Central,
3rd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

3 The Executive Engineer,
Zone-X, Greater Chennai Corporation
Zonal Office, No.117, NSK Salai,
Kodambakkam, Chennai 600 024.

4 Mr.V.S.Ranganathan

..

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 pertaining to the impugned notice dated 07.09.2017 issued by the 3rd respondent in Notice No.Z.O.C/00065/2017, quash the same and consequently direct the 3rd respondent not to initiate any coercive action against the petitioner in respect of property at Door No.340, NSK Salai, Kodambakkam, Chennai-24.

For Petitioner : Ms.K.Subhashini for

M/s.Chennai Law Associates

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 The learned counsel for the petitioner would submit that the 4th respondent, who is the landlord of the premises bearing Door No.96/340, Arcot Road, Kodambakkam, Chennai-24, had put up a commercial building after obtaining Planning Permission vide Planning

Permit No.8/4091/1998 and Building Permit No.8/3438/1998 dated 20.07.1998 and the petitioner became his tenant about 14 years back and is carrying on business under the name and style as "M/s.Singapore Toys World and Sports Goods".

3 The learned counsel for the petitioner would submit that on an earlier occasion, the 3rd respondent had issued the Locking and Sealing and Demolition Notice dated 22.03.2017 to the owner/occupier, expressing their intention to do so and challenging the same, he filed a special revision dated 21.04.2017 under section 80-A of the Town and Country Planning Act, 1971, and along with the main revision, he has also filed a petition for stay which was received and acknowledged by the office of the 1st respondent on the same day, i.e., 21.04.2017 and pendency of the same, the 3rd respondent had once again issued the De-Occupation Notice dated 07.09.2017 and hence, the petitioner is constrained to approach this Court by filing the present writ petition.

4 It is the primordial submission of the learned counsel for the petitioner that the land owner/4th respondent herein, has also give a representation dated 24.11.2016 to the 1st respondent and other officials

of the Corporation of Chennai, specifically pointing out that the original/approved building plan is marked in the pending Rent Control Proceedings and after obtaining it, he undertook to produce the same and also pointed out that the construction put up in the second floor is only a temporary one and if there is an objection, it can be removed also and without taking note of the same, the impugned De-Occupation Notice came to be issued. It is the further submission of the learned counsel that despite pendency of the special revision petition along with the petition for stay, it may not be fair on the part of the 3rd respondent to proceed further in the form of De-Occupation Notice and hence, prays for appropriate orders.

5 Mr.A.Nagarajan, learned Standing counsel appearing for the respondents 2 and 3 would submit that in the absence of any interim order in the pending revision, it is always open to the 3rd respondent to proceed further.

6 Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent would submit that priority will be

accorded for disposing of the revision filed by the petitioner in accordance with law.

7 This Court has considered the rival submissions and also perused the materials placed before it.

8 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 special revision petition dated 21.04.2017, received and acknowledged on the same day, 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 De-Occupation Notice dated 07.09.2017. It is also made clear that till the disposal of the revision petition, neither the

petitioner nor the 4th respondent herein, shall alter the physical features of the property.

9 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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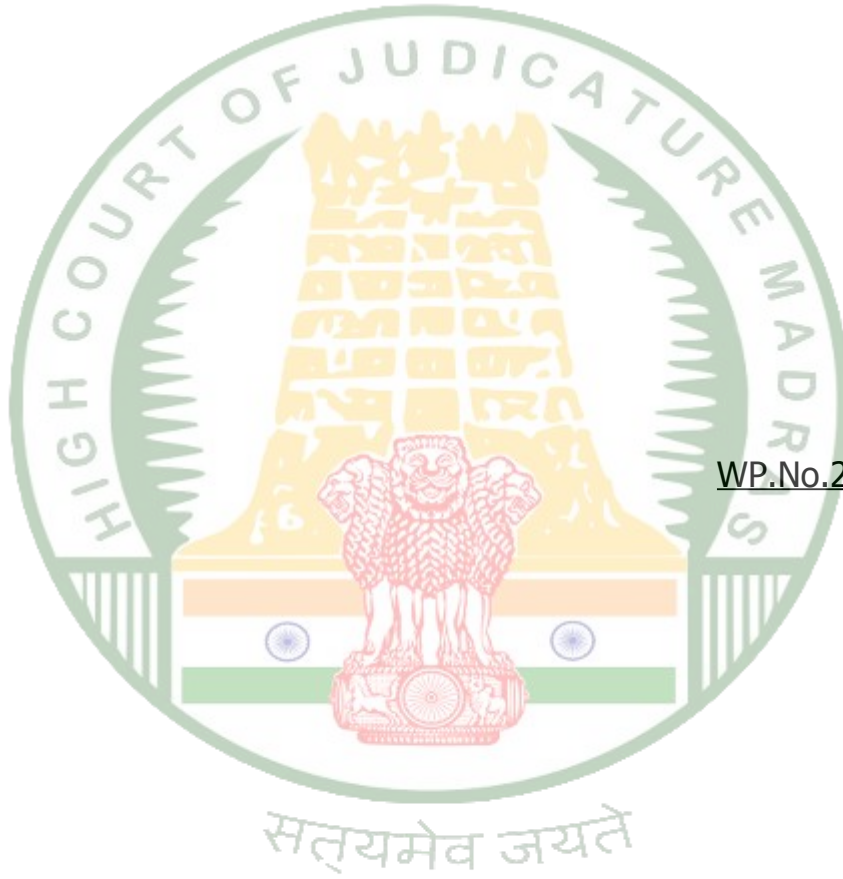
To

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