

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.06.2017

CORAM:

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

W.P.No.15064/2017 & WMP.No.16319/2017

Mangilal

..

Petitioner

Vs

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

2.The Commissioner
Corporation of Chennai
Ripon Building, Chennai 600003.

3.The Executive Engineer,
Zone No.7, Greater Chennai Corporation
CTH Road, Ambattur, Chennai 600053.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamusto forbear the 2nd and 3rd respondents from locking, sealing and demolition of the building situated at No.18, Ambattur Village, MTH Road, comprised in Survey No.204/1, bearing Door No.8, Chennai 600053, in pursuant of De-Occupation Notice issued by the 3rd respondent in Notice N-Zone No.7/DN85/006846/2016 dated 19.11.2016 during the pendency of appeal preferred on the file of the 1st respondent.

For Petitioner : Mr.B.Vijay

For R1 : Mr.R.Vijayakumar, AGP

For RR2&3 : Mr.A.Nagarajan

ORDER

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

It is the case of the writ petitioner herein that he is in occupation of the land and Building situate at No.18, Ambattur

Village, MTH Road, comprised in Survey No.204/1 [bearing Door No.8], Chennai-600053.

2 It is the further case of the writ petitioner that he has purchased the said property by way of a registered Sale Deed dated 27.02.2006 bearing Doc.No.2011/2006 on the file of Sub Registrar, Konnur.

3 The writ petitioner would aver in the writ affidavit that he was surprised to receive a notice dated 20.10.2016 from the 3rd respondent.

4 The above said notice is a locking, sealing and demolition Notice issued inter alia under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'TCP Act' for brevity) read with section 85 of TCP Act.

5 It is also the case of the writ petitioner that he has now been served with a de-occupation notice dated 19.11.2016 which has also been issued by the very same 3rd respondent.

6 The writ petitioner would submit that he has assailed the above said locking, sealing and demolition notice as well as de- occupation notice (both Notices) by way of an application (styled as appeal) under section 80-A of the TCP Act.

7 The limited prayer of the writ petitioner in this writ Petition before us is that the respondents should be directed to forbear from enforcing the above said locking, sealing and demolition as well as de-occupation notices during the pendency of the above said application under section 80-A of TCP Act.

8 Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent. Mr.A.Nagarajan, learned standing counsel accepts notice on behalf of respondents 2 and 3.

9 The application (as cited supra, styled as an appeal) under section 80-A of the TCP Act, is dated 25.11.2016. It is also seen from the typed set of papers placed before us that pending such application / appeal, the writ petitioner has sought an order of interim stay of the above said notices (both Notices) by way of a stay petition. Though no provision of law has been set out in the stay petition, it is obvious that it is under sub section 3 of section 80-A of TCP Act.

10 The writ petitioner would submit before us that the entire building is in compliance with all the provisions of law and there is no violation or deviation.

11 The above submission was made by the writ petitioner in an attempt to huttress his submission that the above said notices do not disclose the nature of alleged violation.

12 Therefore, we record the above said submission.

13 Considering all that have been set out supra, we deem it to be an appropriate case to direct the 1st respondent before us to dispose of the above said stay petition dated 25.11.2016 (obviously under section 80A(3) of TCP Act) as expeditiously as possible and in any event within one week from the date of receipt of this order.

14 We are informed by the learned Additional Government Pleader appearing for the 1st respondent that there are Additional Secretaries to the Government who are also hearing the applications / appeals under section 80-A of TCP Act. We make it clear that it is open to either the 1st respondent or any one of the Additional Secretaries to the Government whom we are informed, are hearing 80-A applications / appeals to dispose of the above said stay petition under section 80-A[3] of TCP Act within the time frame set out supra.

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

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

SK

To

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

2. The Commissioner
Corporation of Chennai
Ripon Building, Chennai 600003.

3. The Executive Engineer,
Zone No.7, Greater Chennai Corporation
CTH Road, Ambattur, Chennai 600053.

+1cc to Government Pleader in sr.no.43089
+1cc to Mr.B.Vijay, Advocate in sr.no.42934
+1cc to Mr.A.Nagarajan, Advocate in sr.no.42912

WP.No.15064/2017

KGK(CO)
NR 30/06/2017



WEB COPY