

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.15992 of 2017

Enrich Apartment Residents Welfare Association
Represented by its President
No.23, M.T.H.Road,
Varadharajapuram,
Ambattur, Chennai - 600 053.

.. Petitioner

Vs.

1.The Member Secretary
CMDA
Chennai - 600 008.

2.The Commissioner
Corporation of Chennai,
Ripon Building
Chennai - 600 003.

3.The Regional Joint Commissioner/Deputy Commissioner
Greater Chennai Corporation (Central),
Old No.12B, New No.36B
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

4.The Assistant Commissioner/Zonal Officer,
Zone -7,
Chennai Corporation,
Ambattur,
Chennai - 600 053.

5.The Inspector of Police,
Ambattur Police Station,
Ambattur,
Chennai - 600 053.

6.Mangilal Jain

.. Respondents

Prayer : Writ Petition filed under Section 226 of Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 to 4 to take action against the sixth respondent as per the letter dated 28.07.2016 of the first respondent.

For Petitioner : Mr.S.Gopinathan

For Respondents : Mr.N.Sampath
Standing Counsel [R1]
Mr.A.Nagarajan
Standing Counsel [RR2 to R4]
Mr.A.N.Thambidurai
Special Government Pleader [R5]

O R D E R

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

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

2. Mr.N.Sampath, learned Standing Counsel appears on behalf of the first respondent, Mr.A.Nagarajan, learned Standing Counsel appears on behalf of the respondents 2 to 4 and Mr.A.N.Thambidurai, learned Special Government Pleader appears on behalf of the fifth respondent.

3. The petitioner is the President of the petitioner's association and has filed the affidavit in support of the writ petition and would aver among other things that he and other members of the petitioner's association numbering 17, purchased their respective flats in Enrich Apartments, situated at No.23, MTH Road, Varadharajapuram, Ambattur and the members of the association were in possession and enjoyment of the property from the year 1995 onwards. It is further submitted by the petitioner that in the ground floor of the said Apartment, there are 17 shops and most of the shops were not in use and of which, two shops that are owned by the sixth respondent, lie on the front portion of the building. The petitioner has expressed his grievance that the sixth respondent, under the guise of running the shop, had encroached upon the common area of the entire floor and extended his shop by carrying out illegal demolition of the beams of the building and also put up additional construction without any planning permission and in this regard, the petitioner had submitted representations to respondents 1 to 4 and in spite of receipt and acknowledgement, no response is forthcoming and hence, came forward to file this writ petition.

4. This writ petition was entertained on 22.06.2017 and when the matter was listed on 15.09.2017, the learned counsel appearing for the sixth respondent would submit that against the lock and seal notice issued by the concerned official of Corporation of Chennai, the sixth respondent has filed a Special Revision under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971, before the Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-9, and it was disposed of with a direction to the jurisdictional officer to cause inspection of the entire premises situated at No.23, MTH Road, Varadharajapuram, Ambattur, Chennai-600 053, and thereafter, take action in accordance with law. He would further contend that in the light of the development, nothing survives for fresh adjudication in this writ petition.

5. The learned Standing Counsel appearing for the fourth respondent has invited the attention of this Court to the counter affidavit filed and would submit that challenging the lock and seal notice dated 20.10.2016, followed by de-occupation notice 23.11.2016 issued to the sixth respondent, he has filed a revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1981, which according to him was disposed of and depending upon the inspection report, further action will be taken in accordance with law.

6. In response to the said submission, the learned counsel appearing for the petitioner has drawn the attention of the Court to the photographs produced and would submit that the sixth respondent with utter disregard and violation of relevant norms and regulations, has put up the unauthorised structure and it should be demolished forthwith.

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

8. The fact remains that the sixth respondent made a challenge to the lock and seal notice dated 20.10.2016, by filing a Special Revision under Section 80-A of the Tamil Nadu Town and Country Planning Act and it was disposed of with a direction, directing the concerned Zonal Officer to cause inspection of the entire premises and thereafter, take action in accordance with law. In the light of the said direction, the concerned official of Corporation of Chennai, shall cause inspection of the entire premises at No.23, MTH Road, Varadharajapuram, Ambattur, Chennai - 600 053, if not already done, after putting the sixth respondent as well as the petitioner-association on notice, and shall take action in accordance with law, as expeditiously as possible and communicate the decision taken, to the petitioner as well as the sixth respondent.

9. The writ petition stands disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To:

- 1.The Member Secretary
CMDA Chennai - 600 008.
- 2.The Commissioner
Corporation of Chennai,
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- 3.The Regional Joint Commissioner/Deputy Commissioner
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Zone -7, Chennai Corporation,
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- 5.The Inspector of Police,
Ambattur Police Station,
Ambattur, Chennai - 600 053.

+1 CC to Mr.C.JOHNSAN, Advocate Sr.No.68958

+1 CC to Mr.S.Gopinathan, Advocate Sr.No.68757

+1 CC to Mr.N.Sampath, Advocate Sr.No.68731

+1 CC to Mr.A.Nagarajan, Advocate Sr.No.69016

+1 CC to Mr.B.Vijay Advocate, Advocate Sr.No.69566

W.P.No.15992 of 2017

VGII(CO)
KP(28.10.2017)