

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.10.2017
CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.26405 of 2017
and WMP.No.28068 of 2017

S.Saravanan

.. Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road,
Chennai - 600 008.

2.Sri Venkateswara Homes
Represented by its Partner
Having Office at Flat No.1, Crystal Lawn
No.20, Haddows Road, First Street,
Nungambakkam
Chennai - 600 034.

3.The Government of Tamil Nadu
Rep. by its Secretary
Housing and Urban Development Department
Fort St.George, Chennai - 600 009.

.. Respondents

Prayer : Writ Petition filed under Section 226 of Constitution of India praying to issue a Writ of Mandamus, directing the first respondent herein to initiate appropriate action against the second respondent for the unauthorised construction and deviations carried out by the second respondent at VRISA Apartments, No.18, Lakshmi Hayagrevar Nagar, 4th Cross Street, Adambakkam at Block No.132 in T.S.No.52/2 at Velachery Village.

For Petitioner : Mr.J.Pothiraj
For Respondents : Mr.A.Kumar [R1]
Mrs.M.E.Rani Selvam
Additional Government Pleader [R3]

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.A.Kumar, learned counsel accepts notice on behalf of the first respondent and Mrs.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the third respondent.

3. The petitioner, in the affidavit filed in support of this writ petition would aver among other things that he had purchased a flat from the second respondent, the promoter of VRISA Apartments and while the occupants including the petitioner, had found deviations and violations in the construction of said apartments, the petitioner along with other flat owners sent a representation to the first respondent, praying for appropriate action and since no response is forthcoming, the petitioner has filed W.P.No.11504 of 2016 before this Court and this Court vide order dated 29.03.2016, has directed the official respondents therein to consider and take action in accordance with law as per the provisions of the concerned Act and since the said order was not implemented by the respondents, the petitioner preferred Cont.P.No.3011 of 2016, wherein an undertaking was given by the concerned official to comply with the orders passed in the earlier writ petition in W.P.No.11504 of 2016.

4. The petitioner would further state that though the first respondent in pursuance to the issuance of the locking, sealing and demolition notice to the second respondent with regard to deviated/unauthorised constructions put up in the property in question in connection with certain amenities in the building, they failed to note the deviation in the Car Parking of the said property, therefore, the petitioner along with other flat owners sent another representation with regard to deviation in the construction of Car Parking. It is further submitted that the second respondent has filed W.P.No.5737 of 2017 praying for issuance of a writ of mandamus forbearing the respondents therein from taking any coercive action in locking, sealing and demolition of the building put up at No.18, Lakshmi Hayagrevar Nagar, IV Cross Street, Adambakkam, Chennai-88, pending determination of the revision/appeal petition filed by him under Section 80-A and 80-A(iii) of the Tamil Nadu Town and Country Planning Act and it was disposed of on 08.3.2017 by directing the concerned respondent to consider the special revision petition as well as the stay petition filed by the second

respondent and pass appropriate orders within a stipulated time. The petitioner would further state that in compliance to the order passed in W.P.No.5737 of 2017, the third respondent, vide his proceedings dated 24.07.2017 has rejected the special revision petition filed by the second respondent, thereby directing the first respondent/CMDA to take action accordingly.

5. It is further contended by the petitioner that despite the dismissal of the said revision, no further action has been initiated against the second respondent in connection with the unauthorised/deviated construction and in this regard, a representation dated 07.08.2017 was also submitted to the first respondent and inspite of receipt and acknowledgement, so far no action has been passed by the first respondent/CMDA and hence the petitioner is constrained to file the present revision petition. It is further submitted by the petitioner that in the light of the dismissal of the special revision petition by the third respondent, vide proceedings dated 24.07.2017, there may not be any impediment on the part of the first respondent to take action against the unauthorised / deviation put up by the second respondent and prays for appropriate order.

5. This Court considered the submissions of the learned counsel appearing for the petitioner and perused the materials placed before it.

6. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to take appropriate action against the unauthorised / deviated construction put up by the second respondent, subject to any legal interdict, after putting the petitioner and the second respondent on notice, shall dispose of the representation dated 07.08.2017 submitted by the petitioner and pass appropriate orders in accordance with law 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 as well as the second respondent.

8. The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road,
Chennai - 600 008.

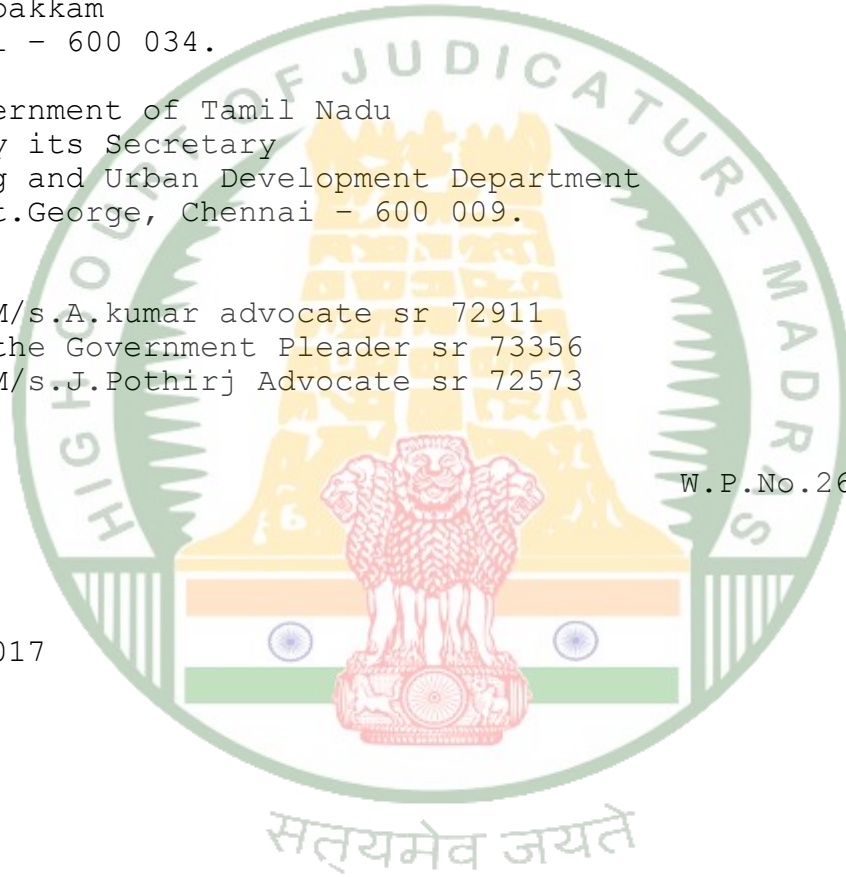
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+1 cc to M/s.A.kumar advocate sr 72911
+1 cc to the Government Pleader sr 73356
+1 cc to M/s.J.Pothirj Advocate sr 72573

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