

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.16803/2017 & WMP.No.18246/2017

M.V.Shyam

.. Petitioner

Vs

1. The Commissioner
Greater Corporation of Chennai
Rippon Buildings, Chennai 600 003.
2. The Executive Engineer/Zone-7
Greater Corporation of Chennai
Ambattur, Chennai 600053.
3. The Assistant Engineer
Greater Corporation of Chennai
Korattur, Chennai.

.. 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 of the 2nd respondent herein vide proceedings No.Z07/TPENF/069/2017 dated 25.04.2017 and quash the same and consequently direct the respondent herein to permit the petitioner to continue his constructionwork.

For Petitioner : Mr.R.Ramesh

For Respondents : 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.A.Nagarajan, learned standing counsel accepts notice on behalf of the respondent.

2. The petitioner in the affidavit filed in support of this writ petition would aver among other things, that he has purchased a property comprised in Survey No.27, present Survey

No.27/6, Plot No.3, Vanasakthi Nagar, Korattur, Chennai, through a registered Sale Deed bearing Doc.No.4826/2013 dated 02.09.2013 registered on the file of the office of the Sub Registrar, Villivakkam and his sister, viz., Latha, had also purchased the remaining portion of 800 sq.ft., in the said survey number through a registered Sale Deed. The petitioner would further aver that he has also obtained a planning permission vide Approval No.D7/5124/2015 and D7/4373/2015 and started putting up construction and in the course of construction, minor deviations had taken place which can be rectified / set right also. The petitioner also aver that to his surprise, all of a sudden, he has been issued with the impugned lock and seal, demolition notice dated 25.04.2017 by the 2nd respondent for which also, the petitioner has submitted his response on 26.04.2017 and came forward to file the present writ petition challenging the said notice and with a prayer to quash the same.

3. The learned counsel for the petitioner would submit that in all fairness, the premises should have been inspected in the presence of the petitioner or his authorised representative ; but it has not been done so and even assuming but not admitting, that there are deviations, those deviations are within the condonable limits and it is open to the petitioner to submit a revised plan for approval and without taking note of the same, the impugned notice came to be issued and therefore, prays for interference.

4. Per contra, Mr.A.Nagarajan, learned Standing Counsel appearing for the respondents would submit on instructions that the petitioner is having an effective alternate remedy in the form of special revision to the Government under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, and therefore, prays for dismissal of the writ petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

6. In the light of the effective alternate remedy available, this Court, without going into the merits of the claim projected by the petitioner, permits the petitioner to file a special revision to the Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-9, under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, and pending disposal of the same, the petitioner is also at liberty to invoke section 80-A[3] of the said Act for interim orders within a period of two weeks from the date of receipt of a copy of this order and the Appellate Authority, on receipt of the same, shall entertain the revision, if the papers are otherwise in order and can either take up the petition filed for

interim order first or the main revision itself by himself or delegate the same to the competent officer and pass appropriate orders on merits and in accordance with law and pass appropriate orders within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner and the 2nd respondent shall defer further proceedings in terms of the impugned notice till the petitioner files the revision before the Appellate Authority within the time stipulated by this Court.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Commissioner
Greater Corporation of Chennai
Rippon Buildings, Chennai 600 003.
2. The Executive Engineer/Zone-7
Greater Corporation of Chennai
Ambattur, Chennai 600053.
3. The Assistant Engineer
Greater Corporation of Chennai
Korattur, Chennai.

Copy to

The Secretary to Government
Housing and Urban Development,
Department,
Secretariat, Chennai-600 009.

+1cc to Mr.R.Ramesh, Advocate, S.R.No.50354
+1cc to Mr.A.Nagarajan, Advocate, S.R.No.51198

WP.No.16803/2017

PA (CO)
CS/08/08/17