

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.26892/2017 & WMP.No.28663/2017

Arshad Ahmed

...

Petitioner

Vs

1 The Secretary,
State of Tamil Nadu
Housing and Urban Development
Department, Fort St George
Chennai 600 009.

2 The Chairman
Chennai Metropolitan Development
Authority, [CMDA] Thalamuthu
Natarajan Building, Egmore, Chennai-600008.

3 The Commissioner
Corporation of Chennai,
Rippon Buildings, Chennai 600 003.

4 The Assistant Engineer
Chennai Corporation,
Ward No.33, Zone No.3
Bazaar Street, Madhavaram
Chennai 600060.

...

Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance a Writ of mandamus directing the 4th respondent to remove the seal on the petitioner's shop at premises at Door No.46/C Madhavaram High Road, Chennai-60, an extent of 6.5x4 on the southern side front portion of the above said premises underneath of staircase.

For Petitioner : Mr.J.R.K.Bhavanantham

For R1 : Mr.M.Digvijay Pandian, AGP

For R2 : Mr.A.Kumar

For RR3&4 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition itself is taken up for final disposal. Mr.M.Digvijay Pandian, learned Additional Government Pleader accepts notice on behalf of the 1st respondent ; Mr.A.Kumar, learned Standing Counsel accepts notice on behalf of the 2nd respondent and Mr.K.Soundararajan, learned Standing Counsel accepts notice on behalf of the respondents 3 and 4.

2 The petitioner claims to be the owner of 25 sqft. of southern side underneath the staircase [6.5x4] of the Ground Floor at Door No.46-C, Madhavaram High Road, Moolakadai, Chennai-600060 and his brother

Ahamed Shithik is running a juice and Snacks shop and the petitioner has got the Sale Deed in respect of the said property through the registered Document dated 05.11.2015 and in pursuant to the order dated 23.06.2017 made in WP.No.15658/2017 filed by Suresh Chand Chordia, a joint inspection was done and the juice shop run by his brother has been locked and sealed.

3 The learned counsel for the petitioner would submit that challenging the locking, sealing and demolition notice dated 25.07.2017, the petitioner filed a special revision petition under section 80-A of the Town and Country Planning Act, 1971, has been filed before the 1st respondent and it is followed by the De-Occupation Notice dated 13.09.2017 and till the disposal of the special revision petition, the lock and seal put up on the juice and snacks shop may be removed and it will be subject to the result of the revision petition.

4 Heard the submissions of the learned Special Government Pleader appearing for the 1st respondent and the respective learned Standing counsel appearing for the respondents 2 to 4, who would submit that since unauthorized constructions have been

noted, action is being taken strictly in accordance with law.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 The grievance expressed by the petitioner is that though the revision petition has been filed as against the Locking, Sealing and Demolition Notice, the juice and snacks shop run by the petitioner has been sealed.

7 This Court, taking into consideration of the fact that a Special revision petition has been filed by the petitioner under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent and also considering the fact of ensuing festival, is of the view that the lock and seal put up on the juice and snacks shop, is to be removed.

8 Accordingly, the 4th respondent is directed to remove the lock and seal put up on the petitioner's shop bearing Door No.46-C [Ground Floor], Madhavaram High Road, Moolakadai, Chennai-600060 and also permits the petitioner to file a petition for stay under section 80-A[iii] of the said Act and the 1st respondent, if the papers are otherwise in order, shall entertain the revision petition along with the petition for stay and shall take up the petition for stay and give a disposal in accordance with law within a period of four weeks from the date of entertainment of the revision petition as well as the petition for stay and the said official is also at option to take the main revision itself and give a disposal in accordance with law within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner. It is made clear that till the entertainment and disposal of the revision petition by the 1st respondent, the petitioner shall not alter physical features of the property in question and shall also not create any third party rights in respect of the same.

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

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1 The Secretary,
State of Tamil Nadu
Housing and Urban Development
Department, Fort St George, Chennai 600 009.

2 The Chairman
Chennai Metropolitan Development
Authority, [CMDA] Thalamuthu
Natarajan Building, Egmore, Chennai-600008.

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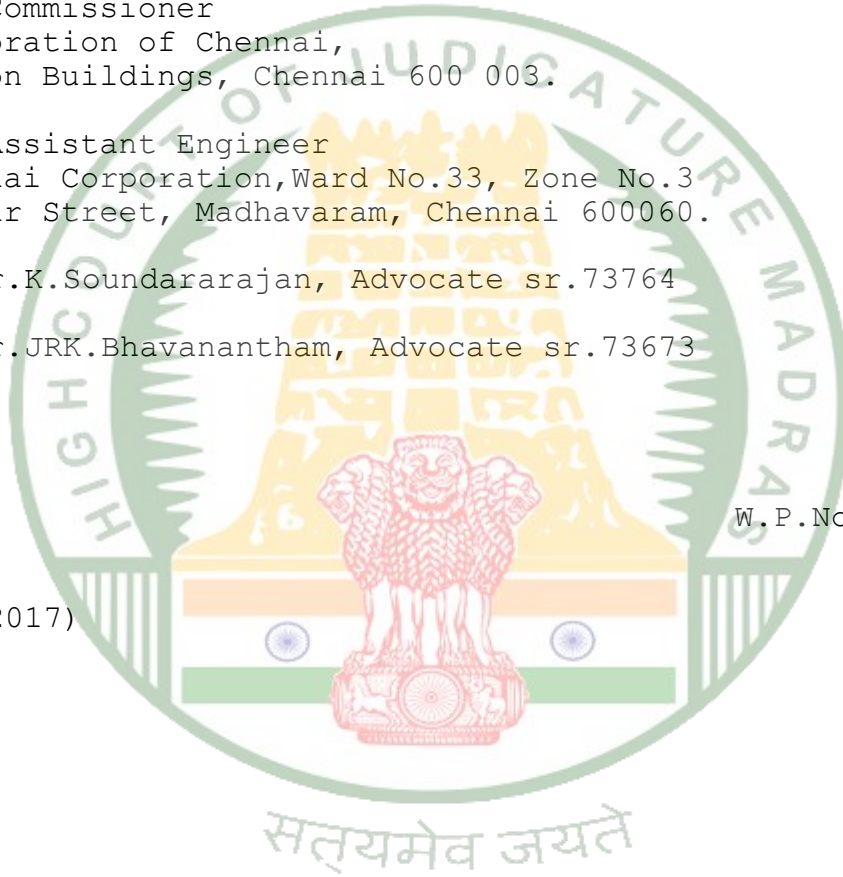
4 The Assistant Engineer
Chennai Corporation, Ward No.33, Zone No.3
Bazaar Street, Madhavaram, Chennai 600060.

+1cc to Mr.K.Soundararajan, Advocate sr.73764

+1cc to Mr.JRK.Bhavanantham, Advocate sr.73673

mr(co)
ss(23/10/2017)

W.P.No.26892/2017



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