

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.26998/2017 & WMP.No.28806/2017

Mr.E.P.Prabakaran

Vs

Petitioner

- 1 The Commissioner
Corporation of Chennai
Rippon Buildings, EVR Salai
Chennai-03.
- 2 The Executive Engineer
T.P.Enforcement Region, Chennai
Corporation of Chennai
Chennai 600 030.
- 3 The Executive Engineer
Zone IX, Chennai Corporation
Lake Area, Nungambakkam
Chennai 600 034.
- 4 The Assistant Engineer
Division 110, Chennai Corporation
Nungambakkam, Chennai 600 034.
- 5 The Assistant Executive Engineer
Unit 24, Corporation of Chennai
Nungambakkam, Chennai 600 034.
- 6 The Secretary
Housing and Urban Development
Department, Secretariat,
Chennai 600 009.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance a Writ of mandamus for bearing the respondents 1 to 3 or anybody on their behalf from initiating any action of locking and sealing and demolition of the building put up at No.29, [Old No.12], Chokattan Salai, Nungambakkam, Chennai-600034 based on their impugned order dated 05.10.2017 under Notice No.Z.O.IX/U024/DIV-110/006/2017 till the disposal of the petitioners appeal petition dated 27.06.2017 submitted under section 80-A of the Tamil Nadu Town and Country Planning Act, with the 6th respondent,

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

For Petitioner : Mr.B.Divakaran
For R1 to R5 : Mr.K.Soundararajan
For R6 : Mr.M.Digvijay Pandian, AGP

ORDER

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

By consent, the writ petition itself is taken up for final disposal. Mr.K.Soundararajan, learned Standing Counsel accepts notice on behalf of the respondent 1 to 5 and Mr.M.Digvijay Pandian, learned Additional Government Pleader accepts notice on behalf of the 6th respondent.

2 The petitioner claims that he is the absolute owner of the land and superstructure bearing Door No.29 [Old No.12], Chokattan Salai, Nungambakkam, Chennai-34, through a registered Sale Deed bearing Doc.No.409/1985 dated 02.09.1985, consisting of Ground and First Floors as well as a vacant top floor on which, the petitioner had put up an asbestos semi-finished superstructure and it is also assessed to statutory levies. The petitioner would further submit that on an earlier occasion, he was issued with a notice dated 16.10.2014 by the 3rd respondent, calling upon him to furnish the approved plan and challenging the same, the petitioner had filed WP.No.29375/2014 and it was dismissed as withdrawn on 12.11.2014, granting liberty to the petitioner to file an appeal / special revision before the concerned authority as per law and accordingly, the petitioner had filed an appeal before the Director of Town and Country Planning, during the year 2014 and it was returned as not maintainable and thereafter, the petitioner had presented the appeal before the 6th respondent. The grievance expressed by the petitioner is that despite the pendency of the appeal, the 3rd respondent has issued the De-Occupation Notice dated 05.10.2017 and hence, the petitioner is constrained to approach this Court by filing the present writ petition.

3 The learned counsel for the petitioner would submit that the petitioner has represented the appeal to the 6th respondent on 27.06.2017 and pending disposal of the same, prayed for interim order and despite pendency of the appeal, action is being taken to dispossess the petitioner and hence, prays for appropriate orders.

4 The Court heard the submissions of Mr.K.Soundararajan, learned Standing counsel appearing for the respondents 1 to 5 and Mr.M.Digvijay Pandian, learned Additional Government Pleader appearing for the 6th respondent and also perused the materials placed before it.

5 Though the petitioner had prayed for a larger relief, this Court in the light of the above facts and circumstances, directs the 6th respondent or the delegated official, to entertain the appeal/special revision along with the petition for stay filed against the order of the Executive Engineer, TP Enforcement Region, dated 16.10.2014, if the papers are otherwise in order 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 receipt of a copy of this order and shall thereafter, take up the appeal/special revision and give a disposal in accordance with law within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner. The 3rd respondent, till the disposal of the petition for stay filed by the petitioner pending disposal of the appeal/special revision on the file of the 6th respondent, shall defer further decision in terms of the De-Occupation Notice dated 05.10.2017. It is also made clear that the petitioner, till the disposal of the appeal/special revision by the 6th respondent, shall not alter physical features of the superstructure in question.

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

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

- 1 The Commissioner
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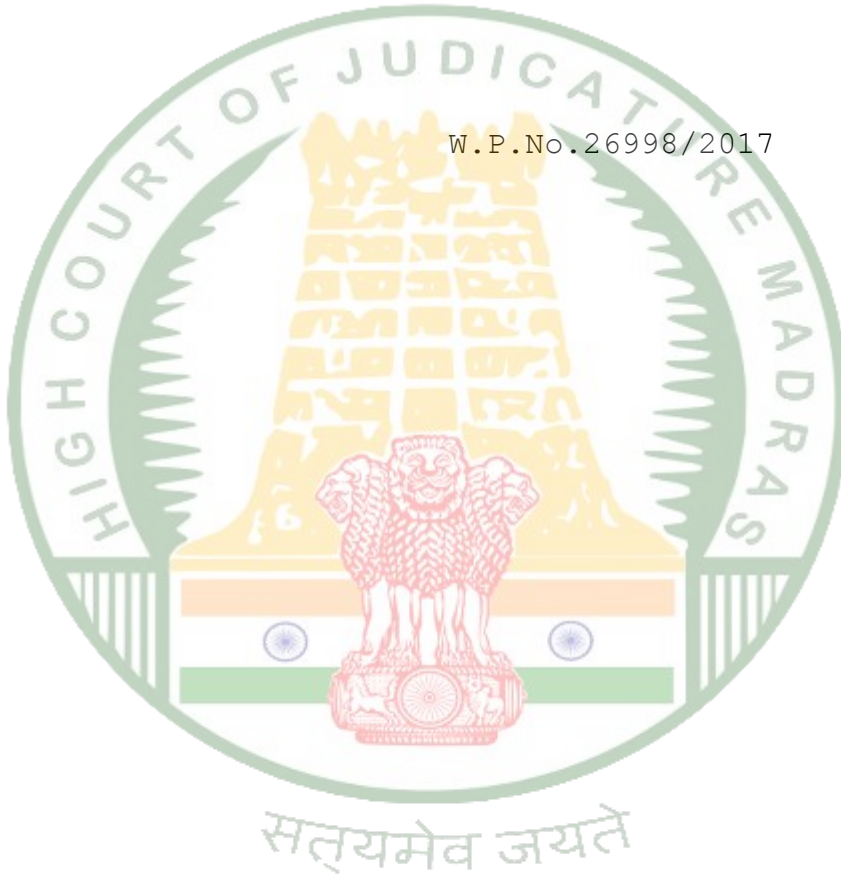
6 The Secretary
Housing and Urban Development
Department, Secretariat,
Chennai 600 009.

+1 CC to Government Pleader SR.No.74727

CO-NRJK

ths : 21.11.2017

W.P.No.26998/2017



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