

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.10.2017
CORAM

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

W.P.No.27503 of 2017
and WMP.Nos.29398 & 29399 of 2017

G.Ravichandran

... Petitioner

Vs.

1.Chennai Metropolitan Development Authority
Rep. by its Member Secretary
3, Gandhi Irwin Road,
Egmore, Chennai.

2.Corporation of Chennai
Rep. By its Commissioner
Rippon Building, Chennai - 3.

3.The Executive Engineer,
Zone No.IX,
No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai - 600 034.

4.The Assistant Executive Engineer
Unit 25.

5.The Assistant Engineer
Division 123

Respondents 4 & 5 having office at :
2nd Cross Street
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

6.M.Vijayarani

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari mandamus to call for the records bearing reference No.Zone-IX/TPENF/02/2017 dated 16.10.2017 on the file of the respondents 3 to 5 and quash the same as illegal and further direct the respondents not to disturb the petitioner's peaceful possession of the property bearing Door No.38/110, Abiramapuram, 4th Street, Chennai-18.

For Petitioner : Mr.S.Arivazhagan
For Respondents : Mr.A.Kumar [R1]
Mr.A.Nagarajan
Standing Counsel for RR2 to 5

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 Mr.A.Nagarajan, learned Standing Counsel accepts notice on behalf of the respondents 2 to 5.

3. The petitioner, in the affidavit filed in support of this writ petition, would aver among other things that he is residing at N.45/5, Warrens Square, Warrens Road, Mylapore, Chennai-600 004 and carrying on business in the name and style of "Annai Pazhamudhir Solai" selling vegetables, fruits, packed food products and also running a provisions shop, occupying both the ground and first floor at No.38/110, Abiramipuram, 4th Street, Alwarpet, Chennai-600 018, under the tenancy of the sixth respondent, the owner of the said premises, since 06.4.2014. It is stated that on an earlier occasion on 02.08.2016, a Locking, Sealing and Demolition notice was issued by the Corporation of Chennai to the sixth respondent, alleging unauthorised construction in the name of Annai Pazhamudhir Solai, and challenging the same, the sixth respondent had filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and vide order dated 24.03.2017, the Secretary to Government Housing and Urban Development Department, Secretariat, Chennai-9, has disposed of the appeal, granting six months time to the sixth respondent to vacate the tenant in the said premises and to remove the temporary structures put up in the front and rear setbacks immediately. But, no challenge has been made to the said order by the sixth respondent. It is contended by the petitioner that though the landlady had collected a sum Rs.16,50,000/- towards rental advance and rented the premises to him on a monthly rent of Rs.1,65,000/-, she indirectly wanted to evict the petitioner from the said premises, and the third respondent has issued the de-occupation notice dated 16.10.2017 to him, and challenging the same, the petitioner has filed the appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the Secretary to Government, Housing and Urban Development Authority, Fort St.George, Chennai-600 009, and it was also

received and acknowledged on 23.10.2017 and despite the pendency of the appeal, steps are being taken to dispossess the petitioner from the land in question and hence, prays for appropriate orders.

4. Mr.S.Arivazhagan, learned counsel appearing for the petitioner would submit that along with the appeal/special revision filed by the petitioner, a petition for stay has been filed and without disposing the same, steps are being taken to dispossess the petitioner and hence prays for appropriate orders.

5. Mr.A.Nagarajan, learned Standing Counsel appearing for the Corporation would submit that since the premises and the structures in the land in question has been put up for commercial purposes, action has been taken strictly in accordance with law.

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

7. Though the petitioner prays for a larger relief, this Court without going into the merits of the claims projected by the petitioner, either in his appeal/special revision petition or in the writ petition, directed the Secretary to Government, Housing and Urban Development Authority, Fort St.George, Chennai-600 009, to take the appeal/special revision petition along with the petition for stay on file, if the papers are otherwise in order and either the said official or its delegated authority 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 said appeal/special revision petition and is also at option to take to take up the main petition itself for final disposal, after putting the sixth respondent on notice and shall consider the same and pass orders on merits and in accordance with law, within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner. The officials of the Corporation, till the disposal of the petition for stay, shall defer further decision in terms of the impugned notice dated 16.10.2017.

8. The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

ds

Note: Communicate a copy of this order to the Secretary to Government, Housing and Urban Development Authority, Fort St.George, Chennai-9.

To:

- 1.The Secretary to Government
Housing and Urban Development Authority
Fort St.George, Chennai- 9.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority
3, Gandhi Irwin Road,
Egmore, Chennai.
- 3.The Commissioner
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Chennai - 600 030.

+1 CC Mr.A.NAGARAJAN Advocate SR.No.75779
+1 CC Mr.S.Arivazhagan Advocate SR.No.75842

EGR 14/11/2017

W.P.No.27503 of 2017