

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.11.2017

CORAM

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

WP.No.29358/2017

B.Ranjan

..Petitioner

Versus

1.The Secretary

Government of Tamil Nadu
Housing and Urban Development
Department, Secretariat,
Fort St George, Chennai 600009.

2.The Commissioner

Corporation of Chennai
Ripon Building, Chennai 600 003.

3.The Executive Engineer

Zone-VII, Corporation of Chennai
3rd Block, No.536, CTH Road
Ambattur, Chennai 600 053.

..Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus forbearing the respondents 2 and 3 herein from initiating any coercive action of locking and sealing with regard to the building put up at No.77, Vasantham Street, Kumaran Nagar, Padi, Chennai 600 050 till the disposal of the appeal petition submitted before the 1st respondent dated 07.11.2017 u/s.80-A of the Town and Country Planning Act .

For Petitioner : Mr.Thomas T.Jacob
For R1 : Mrs.M.E.Rani Selvam, AGP
For RR2 and 3 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the respondents 2 and 3.

2 The petitioner claims to be the owner of the property bearing Plot No.77, Vasantham Street, Kumaran Nagar Extension - II, Padi, Chennai-600 050, in S.No.299, admeasuring to an extent of 2540 sq.ft., and he purchased the same through a registered Sale Deed bearing Doc.No.3121/1983 dated 16.09.1983. According to the petitioner, he has obtained the Planning Permission bearing No.PPA/WDC07/13813/2012 on 14.02.2013 and Building Permission No.PPA/WDC07/13813/2013 dated 14.02.2013 and started putting up a construction in accordance with the sanctioned plan and it has also been completed and the said property is also subjected to statutory levies. The petitioner was issued with a notice dated 26.07.2017 by the Assistant Executive Engineer, /U-19, u/s.56 and 57 read with 85 of the Tamil Nadu Town and Country Planning Act, 1971, calling upon the petitioner to produce the approved plan for which the petitioner has sent a reply dated 02.08.2017 praying for more time to produce the same. However, the 3rd respondent has issued the Locking and Sealing and Demolition Notice dated 13.10.2017, pointing out the following deviations:

Sl.No	Details	As per Approved Plan	As per Site	Difference	Unauthorised / Deviation
1	Stilt Floor	9.88	120.86	-110.98	Deviation
2	First Floor	149.67	162.05	-12.38	Deviation
3	Second Floor	120.38	56.03	64.35	-
4	Third Floor	9.88	21.94	-12.06	Deviation

and calling upon the petitioner to remove the offending construction within 30 days from the date of receipt of the notice, failing which, action will be taken in accordance with the provisions of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner challenging the legality of the said notice, has filed a special revision/appeal u/s.80-A of the Act along with a petition for stay and in the appeal/special revision, the petitioner took a stand that he has constructed the building and taken utmost care to make sure that requisite permission is obtained and prays for setting aside of the impugned notice.

3 The learned counsel for the petitioner would submit that subsequently, the petitioner has also submitted the approved planning permission and the alleged offending deviation pointed out, if any, is minimal in nature and it is also within the condonable limits and though the special revision/appeal along with the petition for stay was submitted as early as on

07.11.2017, so far no orders have been passed in the petition for stay and taking advantage of the same, the 3rd respondent is attempting to put lock and seal and thereafter, to demolish the building and hence, prays for appropriate orders.

4 The Court heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the 1st respondent and Mr.K.Soundararajan, learned standing counsel appearing for the respondents 2 and 3 and also perused the materials placed before it.

5 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent to entertain the special revision/appeal, if the papers are otherwise in order and either the 1st respondent or the delegated official shall take up the petition for stay and give a disposal in accordance with law within a period of three weeks from the date of receipt of a copy of this order and the 1st respondent / delegated official is at liberty to take up the main appeal/special revision for final hearing itself and give a disposal on merits and in accordance with law as expeditiously as possible and communicate the decision taken, to the petitioner. It is made clear that the 3rd respondent, till the disposal of the petition for stay by the 1st respondent / delegated official, shall defer further decision in terms of the impugned notice dated 13.10.2017.

6 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

AP
To

1.The Secretary
Government of Tamil Nadu
Housing and Urban Development
Department, Secretariat,
Fort St George, Chennai 600009.

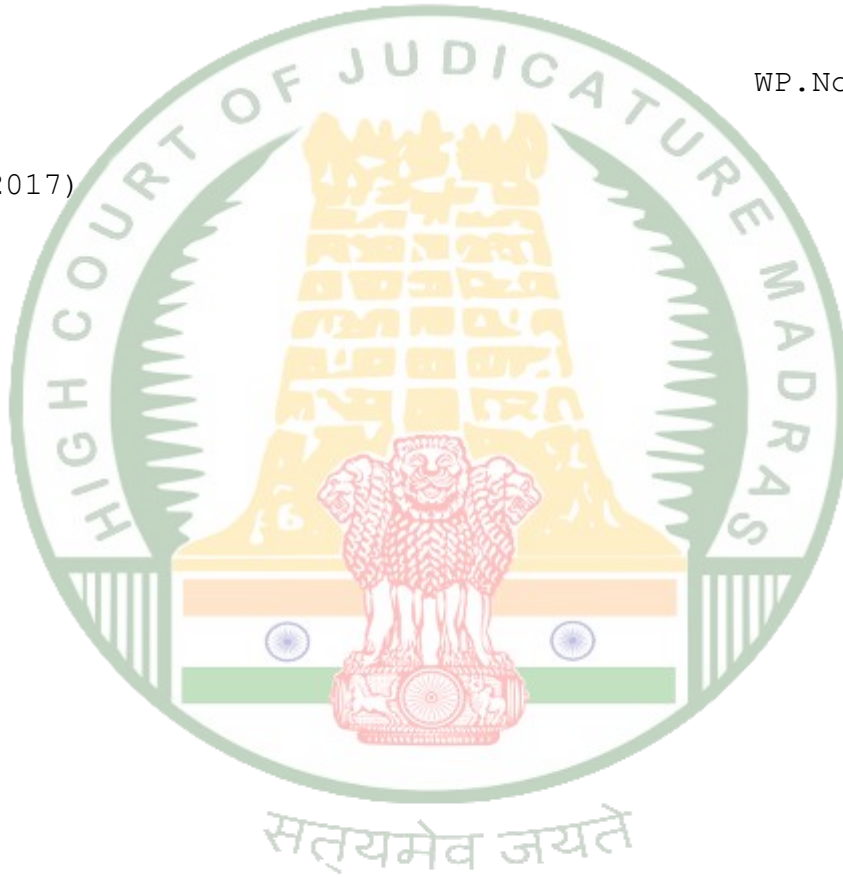
2.The Commissioner
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Ripon Building, Chennai 600 003.

3.The Executive Engineer
Zone-VII, Corporation of Chennai
3rd Block, No.536, CTH Road
Ambattur, Chennai 600 053.

+ 1 cc to MR. Thomas T. Jacob, Advocate Sr.81370
+ 1 cc to Mr. K. Soundararajan, Advocate SR.81581
+ 1 cc to Government Pleader Sr.82009

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DR(CS)
EU(13/12/2017)



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