

In the High Court of Judicature at Madras

Dated : 02.08.2017

Coram

The Honourable Mr. Justice R. SUBBIAH
and
The Hon'ble Mr. Justice A.D. JAGADISH CHANDIRA

W.P No.19844 of 2017
and
WMP Nos.21422 of 2017

M/s Marudhar Tecchem Limited
rep by its Director
Krishna Kumar Maheswari,
No.2/93, EVK Sampath Road,
Vepery, Chennai - 7 Petitioner

..vs..

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 3
2. The Executive Engineer,
Corporation of Chennai,
Zone V
No.61, Basin Bridge Road,
Chennai - 21
3. Government of Tamil Nadu,
rep by its Secretary to Government,
Housing and Urban Development
Department,
Fort St. George, Chennai - 9

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus forbearing the respondents 1 and 2 from initiating any coercive action of locking and sealing and demolition action with regard to the building put up at No.2/93, E.V.K. Sampath Road, Vepery, Chennai - 600 007 pending determination of Section 80-A Revision Petition dated 24.07.2017 with the Government.

For petitioner : Mr.R. Mohan
For R.1 & R.2 : Mr.A. Nagarajan

For R.3

: Mr.A.N. Thambidurai
Special Government Pleader

ORDER

(Judgment of the Court was delivered by R. SUBBIAH,J.,)

The petitioner has filed the present writ petition seeking for an issuance of a Writ of Mandamus forbearing the respondents 1 and 2 from initiating any coercive action of locking and sealing and demolition action with regard to the building put up at No.2/93, E.V.K. Sampath Road, Vepery, Chennai - 600 007 pending determination of Section 80-A Revision Petition dated 24.07.2017 with the Government.

2. Mr.A. Nagarajan, learned counsel takes notice for the respondents 1 and 2 and Mr.A.N. Thambidurai, learned Special Government Pleader takes notice for the third respondent.

3. In the affidavit, filed in support of the petition, it is stated that the petitioner, being the owner of No.2/93, E.V.K. Sampath Salai, Vepery, Chennai - 7 having purchased the same recently, carried out the interior modifications and renovations to the old building which has been in existence for more than 30 years. In fact, in the very same building, the petitioner was originally a tenant under one R. Balaji Krishnan and others as early as in the year 1975 and after removing the rear encroacher, the petitioner purchased the petitioner's premises and merged the front and rear block consisting of ground + MF + First floor. The nature of repairs and exterior elevations no way violate the planning rules and regulations. Such being the case, the officials of Corporation of Chennai, through second respondent, issued a locking and sealing and demolition notice under Sec.56 of the Town and Country Planning Act dated 09.06.2017. Since the notice is violative of the provisions of the Town and Country Planning Act, the petitioner herein preferred Special Revision Petition along with stay petition under Sec.80(A) of Town and Country Planning Act to the third respondent Government on 24.07.2017. Despite the pendency of the revision petition under Sec.80(A) of the Town and Country Planning Act, the officials of Corporation of Chennai come to the petitioner's premises and threaten to initiate locking and sealing and demolition action. Apprehending that the respondents may take coercive action pending disposal of the revision, the present writ petition is filed.

4. Considering the facts and circumstances of the case, we direct the third respondent to consider the revision filed by the petitioner on 24.07.2017 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioners within three months from the date of receipt of a copy of this order. Till this disposal of the appeal no coercive steps shall be taken by the

respondent authorities. All the contentions raised in this writ petition are left open to be urged by the petitioners before the appellate authority.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected WMP is closed.

-s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

sr

To

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai -3
2. The Executive Engineer,
Corporation of Chennai,
Zone V
No.61, Basin Bridge Road,
Chennai - 21
3. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development
Department,
Fort St. George, Chennai - 9

+1 CC to Mr. R. Mohan, advocate sr 55282
+1 CC to Mr.A. Nagarajan, Advocate sr 55379
+1 CC to Govt. Pleader sr 55652.

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GJII(CO)
SP(01/09/2017)