

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.19845 OF 2017
AND
WMP NO.21423 OF 2017

Dr.R. Rajesh

... Petitioner

...vs...

1. Chennai Metropolitan Development Authority,
rep by its Member-Secretary,
No.1, Gandhi-Irwin Road,
Egmore, Chennai - 8

2. 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.33/17, (Ground cum stilt floor), Neelakanda Mehta Street, T. Nagar, Chennai - 600 017, pending determination of Section 80-A Revision Petition dated 18.07.2017 with the Government.

For petitioner : Mr.P. Ramanathan

For R.1 : Mr.N. Sampath

For R.2 : Mr.A.N. Thambidurai
Spl.G.P

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.33/17, (Ground cum stilt floor), Neelakanda Mehta Street, T. Nagar, Chennai - 600 017, pending determination of Section 80-A Revision Petition dated 18.07.2017 with the Government.

2. Mr.N. Sampath, learned counsel takes notice for the first respondent and Mr.A.N. Thambidurai, learned Special Government Pleader takes notice for the second respondent.

3. In the affidavit, filed in support of the petition, it is stated that the petitioner is the owner of the stilt cum ground (part) portion of the property situated at No.33/17, Neelakanda Mehta Street, T.Nagar, Chennai-17, wherein he is running a Dental clinic in a small area of 400 sq.ft and the entire property was originally hold by his father and in the year 2011, the property was developed into residential apartments as well as a small clinic by one Chandra Prakasam after obtaining planning permission from the Chennai Metropolitan Development Authority (CMDA) in permit No.6468 dated 28.2.2011. The petitioner was allotted with a small portion in the stilt cum ground floor and he has been running the dental clinic. The usage of clinic in a small area is permissible under planning rules and regulations in the residential zone. Such being the case, suddenly, on 27.06.2017, the petitioner was issued with a locking and sealing and demolition notice by CMDA under Sec.56 of the Town and Country Planning Act alleging deviations in the constructions. As against such notice, the petitioner preferred special revision petition and stay petition under Sec.80(A) of the Town and Country Planning Act to the second respondent on 18.07.2017. Despite the pendency of the revision petition under Sec.80(A) of the Town and Country Planning Act, the officials of CMDA 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 second respondent to consider the revision filed by the petitioner on 18.07.2017 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.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

sr

To

1. The Member-Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi-Irwin Road,
Egmore, Chennai - 8
2. The Secretary to Government
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai - 9

+1cc to M/S.N.Sampath, Advocate Sr. 55147
+1cc to Mr.P.Ramanathan, Advocate Sr. 55283
+1cc to the Government Pleader Sr. 55651

W.P.No.19845/2017

AR(J)
VR(23/8/2017)

WEB COPY