

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.19846 of 2017
and
WMP No.21424 of 2017

L. Santha Kumar ... 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.4, Unnamalai Ammal Street, T. Nagar, Chennai - 600 017,
pending determination of Section 80-A Revision Petition
dated 30.06.2017 with the Government.

For petitioner : Mr.Dr.P. Vasudevan

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.4. Unnamalai Ammal Street, T. Nagar, Chennai - 600 017, pending determination of Section 80-A Revision Petition dated 30.06.2017 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 property situated at No.4/40, Unnamalai Ammal Street, T.Nagar, Chennai-17, In order to put up the constructions for service apartments cum dining house consisting of stilt + 3 floors, the petitioner obtained planning permission from the first respondent/Chennai Metropolitan Development Authority (CMDA) in permission No.B/Spl.BLDG./147/2007 dated 28.03.2007. Thereafter, the petitioner put up the building and completed the same by middle of 2007 and put the building into use as loading house cum restaurant for the inmates. The building has been in existence for more than 10 years and during the course of constructions, the petitioner has provided a small room in the stilt floor as a reception area and also has A.C. Sheet Shed in the terrace of the building. Those variations are regularizable and exempt able under Secs. 113 and 113(C) of the Town and Country Planning Act. In the meanwhile, after ten years, the first respondent issued a locking and sealing notice under Sec.56 of the Town and Country Planning Act dated 27.6.2017. Aggrieved against the same, 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 30.06.2017. 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 30.06.2017 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 (CS II)

/true copy/

Sub Asst. Registrar

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 Mr.P.Vasudevan,Advocate sr.55285

+1cc to Mr.N.Sampath,Advocate sr.55145

+1cc to Government Pleader sr.56280

W.P.No.19846/2017

kj (co)
ss (31/8/2017)

सत्यमेव जयते

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