

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.10044/2018 & WMP.Nos.12000 & 12001/2018

M.Ananda Kumar

Petitioner

Versus

- 1.The Commissioner
Greater Corporation of Chennai
Ripon Building, Chennai 600 003.
- 2.The Regional Deputy Commissioner
[Central], Greater Corporation of Chennai
Door No.36B, 2nd Cross Street, Pulla Avenue
Shenoy Nagar, Chennai 600 030.
- 3.The Executive Engineer
Zone-XIII, Greater Corporation of Chennai
Adyar, Chennai 600 020.
- 4.The Assistant Executive Engineer
Zone-XIII, Greater Corporation of Chennai
No.115, Dr.Muthulakshmi Salai, Adyar
Chennai 600 020.
- 5.The Secretary
The Tamil Nadu Information Commission
Teynampet, Chennai 600 018.

6.Mr.Kumar

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records pertaining to the proceeding bearing Notice No.170/005/2017 dated 06.01.2017 and proceeding bearing Notice No.Z.O.13/C.No. /2017 dated 30.01.2017 of the 4th respondent and the proceeding bearing Notice No.AEE/002/Spl/2018 dated 28.03.2018 of the 3rd respondent and quash the same and consequently forbearing the respondents 1 to 4 from proceeding against the petitioner's property situated at no.7/1, Kannagi Street, Visalatchi Nagar, Ekattuthangal, Chennai 600032 u/s.56

[1] and 57 read with section 85 of the Tamil Nadu Town and Country Planning Act, 1971, till the adjudication of S.A.no.4979/2017 on the file of the 5th respondent under the Right to Information Act, 2005.

For Petitioner : Mr.K.Elangoo
For RR 1 to 4 : Mr.A.Nagarajan
For R5 : Mr.R.Udhayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the respondents 1 to 4 and Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the 5th respondent.

2 The petitioner, on are earlier occasions, filed WP.No.44086/2017 against the Corporation of Chennai officials as well as against the 6th respondent herein, praying for issuance of a writ of mandamus, directing the Corporation of Chennai, to consider his representations dated 19.12.2014 and 18.11.2016 and to demolish the unauthorised construction put up by the 4th respondent therein / 6th respondent herein, at Door No.8, Kannagi Street, Visalatchi Nagar, Ekattuthangal, Chennai-32 and the said writ petition was disposed of by this Court on 22.12.2016, by directing the 3rd respondent therein - 4th respondent herein, to consider and dispose of the petitioner's representations after determining the veracity of the allegation. Thereafter, the petitioner was issued with the Stop Work Notice / notice calling for approved plan and challenging the said action, the petitioner filed WP.No.4466/2017 and it was disposed of by this Court on 22.02.2017, by directing the respondents 1 to 4 therein to re-examine the matter and initiate action in accordance with law and if any violation is noted, action can be initiated and in the interregnum, shall not take any coercive action and the petitioner was also granted liberty to produce the documents if any, available with him before the respondent-authorities. Thereafter, the petitioner has been issued with the impugned Lock and Seal and De-Occupation Notice dated 28.03.2018 and challenging the same, the present writ petition is filed.

3 The learned counsel for the petitioner would submit that his father, viz., A.Masilamani, was the absolute owner of the premises bearing Door No.7/1, Kannagi Street, Visalatchi Nagar, Ekattuthangal, Chennai-32, admeasuring to an extent of 2 grounds and 377 sq.ft., and after obtaining the planning permission, he has put up the construction and in the year 2015 Mega Flood, there was an inundation and the documents got washed away / destroyed and as such, he was not in a position to produce necessary documents evidencing the obtaining of Planning

Permission and putting up the construction in accordance with the sanctioned plan and the petitioner has also sought information under the Right to Information Act, 2005, and the Second Appeal in that regard, is pending and till such time, the appeal to be considered and disposed of, further proceedings in terms of the impugned notice may be deferred and prays for appropriate orders.

4 The Court heard the submissions of Mr.A.Nagarajan, learned Standing counsel appearing for the respondents 1 to 4 and Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the 5th respondent and perused the materials placed before it.

5 This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, grants liberty to the petitioner to file a special revision u/s.80-A along with the petition for stay u/s.80-A[3] of the Tamil Nadu Town and Country Planning Act, 1971, within a period of four weeks to the Secretary to Government, Housing and Urban Development Department, Secretariat, Fort St George, Chennai-9 - Revisional Authority, and the said Revisional Authority, shall entertain the revision along with the petition for stay, if the papers are otherwise in order. The Revisional Authority or the delegated official, shall take up the petition for stay initially and give a disposal in accordance with law within a period of four weeks from the entertainment of the same and till such time, the respondents 1 to 4 shall defer further decision in terms of the impugned notice dated 28.03.2018. The Revisional Authority or the delegated official is also at option to take up the main revision itself and give a disposal on merits and in accordance with law within a period of twelve weeks from the date of entertainment of the revision and communicate the decision taken, to the petitioner herein.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Commissioner
Greater Corporation of Chennai
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- 2.The Regional Deputy Commissioner
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- 5.The Secretary
The Tamil Nadu Information Commission
Teynampet, Chennai 600 018.

COPY TO:-

The Secretary to Government
Housing and Urban Development Department,
Secretariat, Fort St George, Chennai-600009.

+1cc to Mr.K.Elango, Advocate Sr.No.30108

+1cc to Government Pleader Sr.no.30347

RK(CO)

sm:15.5.2018

WP.No.10044/2018

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