

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.9040/2018 & WMP.Nos.10893 & 10894/2018

Mathiyalagan

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Petitioner

Versus

1.The Secretary to Government
Housing & Urban Development Department
St George Fort, Secretariat, Chennai 600 009.

2.The Commissioner
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.

3.The Executive Engineer, Zone-XI
Greater Chennai Corporation
Lake Area, Nungambakkam
Chennai 600 034.

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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 impugned notice dated 19.01.2018 of the notice No.Z.O.IX.C.No.00045/2018 of the 3rd respondent and quash the same and consequently forbear the respondents, their men, subordinates and

persons claiming through them from interfering with the peaceful possession by way of locking and sealing pending consideration of the appeal filed under 80-A of the Town and Country Planning Act, 1971.

For Petitioner	:	Mr.S.Santhan
For R1	:	Mr.R.Udhayakumar, AGP
For R2&R3	:	Mr.A.Nagarajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the respondents 2 and 3.

2 One D.Hari filed WP.No.25818/2017 to direct the respondents 2 and 3 therein to stop with the further demolition of the house bearing Plot No.3, Old Door No.48/46, West Namachivayapuram, Choolaimedu, Chennai-94 and this Court, vide order dated 27.09.2017, directed the concerned officials of the respondents to cause inspection of Plot Nos.1 to 5 and accordingly, the Inspection Report dated 02.01.2018 was submitted and it is relevant to extract the same:-

S.No	Plot No	As per sanctioned plan	As per Site	Set Back Details	As per Ground	Name of the Owner	Remarks
1	01	NIL	G+2 Floors	No setback in all sides	G.F.-66.11 M2 F.F.-66.11 M2 S.F.-66.11 M2 Total-198.33M2	Tiru.Mathiylahan	Unauthorised construction of Ground Floor, First Floor and second Floor
2	02	NIL	Ground Floor	West-1.20m East-3.70m North-0.85m South- 1.60m	G.F.-21.73 M2 Toilet-4.16 M2 Staircase – 1.71 M2 Total-27.60 M2	Thiru. P. Sambandam	Unauthorised Construction of Ground Floor
3	03	Stilt + 2 Floors	G+2 floors	No setback in all sides	G.F. - 84.70 M2 F.F. - 84.70 M2 Total – 169.40 M2 Setback:- West – 7.11 x 1.50 = 10.67 M2 East – 7.11 x 1.51 = 10.74 M2	Thiru D.Hari	Second Floor demolished as per the Hon'ble High Court direction. Deviation in Ground Floor and first floor.
4	04	NIL	G+1 floor	No setback in all sides	G.F. - 69.30 M2 F.F. - 69.30 M2 Total - 138.60 M2	Thiru R.Ravi	Unauthorised construction of ground floor and first floor.
5	05	NIL	G+2 Floors	No setback in all sides	G.F. - 40.28 M2 F.F. - 40.28 M2 S.F. - 40.28 M2 Total - 120.84 M2	Thiru Vishwanathan	Unauthorised construction of ground floor & First Floor & Second Floor

3 The Inspection Report reveals that the petitioner is also guilty of putting up unauthorised construction consisting of Ground, First and Second Floors, having a total plinth area of 198.33 sq.m. The 3rd respondent has issued a Locking, Sealing and Demolition Notice dated 09.11.2017 and it is followed by the impugned De-Occupation Notice dated 19.01.2018 and challenging the De-Occupation Notice dated 19.01.2018, the petitioner has filed a special revision dated 05.03.2018 u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st

respondent and despite receipt and acknowledgment, no orders have been passed so far and taking advantage of the same, the 3rd respondent is proceeding further to demolish the offending construction and hence, the petitioner is constrained to approach this Court by filing the present writ petition.

4 *Per contra*, Mr.A.Nagarajan, learned standing counsel appearing for the respondents 2 and 3 would submit that in the light of the Inspection Report dated 02.01.2018, further action is being taken and also undertakes to inspect the entire area and file a further Status Report.

5 The Court heard the submissions of Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the 1st respondent and perused the materials placed before it.

6 Though the petitioner had 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 or the delegated official, to entertain the special revision, if the papers are otherwise in order and give a disposal in accordance with law

within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner herein.

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

[MSNJ] [PRMJ]
13.04.2018

Internet : Yes

AP

To

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M.SATHYANARAYANAN, J.,
AND
P.RAJAMANICKAM, J.,
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