

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.8051/2018 & WMP.No.10035/2018

Tharakaram rep.by his Power of Attorney Holde  
M/s.Sri Vasavi Builders and Promoters, rep.by  
its Managing Partner, J.Hari Kumar .. Petitioner

Versus

1.The State of Tamil Nadu rep. By its  
Secretary, Housing and Urban Development  
Department, Fort St George  
Chennai-9.  
2.The Executive Engineer [Enforcement]  
Greater Chennai Corporation  
Zone-V, Basin Bridge, Chennai-21. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolishing petitioner's premises at 32/36, Arumugam Street, George Town, Sowcarpet, Chennai 600 079, under Town and Country Planning Act Act, for a period of three months so as to enable the petitioner either rectify or submit a fresh planning permission as per Rules.

For Petitioner : Mr.L.Chandrakumar  
For R1 : Mr.T.M.Pappiah, Spl.GP  
For R2 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.T.M.Pappiah, learned Special Government Pleader accepts notice on behalf of the 1<sup>st</sup> respondent and Mr.K.Soundararajan, learned Standing Counsel accepts notice on

behalf of the 2<sup>nd</sup> respondent.

2 Thiru J.Hari Kumar, Managing Partner of M/s.Vasavi Builders and Promoters, claims to be the Power of Attorney Holder of the Principal, viz., Tharakaram, and Planning Permission was accorded to construct Stilt + Ground Floor part + 2 Floors way back in the year 2013 and it is in occupation and enjoyment of the Power of Attorney Holder. The said property/superstructure was also subjected to statutory levies. However, to the shock and surprise of the petitioner, he was issued with the Locking and Sealing Notice dated 18.01.2018, pointing out certain deviations in front and rear set backs as well as floor violation. Hence, the 2<sup>nd</sup> respondent has issued the Locking and Sealing Notice dated 18.01.2018 in letter No.4659/UD-VI[2]/2017-3. The petitioner, challenging the legality of the same, filed a Review Petition dated 01.02.2018 u/s.81 of the Tamil Nadu Town and Country Planning Act, 1971, along with a petition for stay and however, neither the petition for stay nor the main revision petition is yet to be taken up for hearing and apprehending dispossession and demolition, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the photographs and would submit that already the Ground Floor has been sealed and rest of the floors are purely used for residential purposes and in the event of Locking and Sealing Notice being implemented and premises is demolished, the occupants will be put to grave hardship and difficulty and prays for appropriate orders, directing the 1<sup>st</sup> respondent to dispose of the revision petition at an early date.

4 The Court heard the submissions of Mr.T.M.Pappiah, learned Special Government Pleader appearing for 1<sup>st</sup> respondent and Mr.K.Soundararajan, learned Standing Counsel appearing for the 2<sup>nd</sup> respondent and also perused the materials placed before it.

5 Though the petitioner has 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 1<sup>st</sup> respondent or the delegated official to entertain the revision petition filed by the petitioner u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, if the papers are otherwise in order and shall take up the petition for stay at the first instance and give a disposal in accordance with law within a period of four weeks from the date of receipt of a copy of this order and till such time, shall defer further decision as to the demolition of the superstructure. The 1<sup>st</sup> respondent / delegated official, is also at liberty to take up the main revision itself and give a disposal on merits and in accordance with law within a period of

ten weeks from the date of entertainment of the revision petition.

6 Since the ground floor is already under Lock and Seal, it shall continue to remain so till the disposal of the revision petition. It is also made clear that till the disposal of the revision petition by the 1<sup>st</sup> respondent / delegated official, the petitioner shall not create any third party rights in respect of the site and superstructure in question and shall not alter the physical features also.

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

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary,  
State of Tamil Nadu,  
Housing and Urban Development  
Department, Fort St George  
Chennai-9.

2.The Executive Engineer [Enforcement]  
Greater Chennai Corporation  
Zone-V, Basin Bridge, Chennai-21.

+1 cc to M/s.L.Chandrakumar Advocate sr 26514

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