

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.10083/2018 & WMP.Nos.12039 & 12071/2018

Leon

Petitioner

Versus

- 1.The Executive Engineer
zone-V, Corporation of Chennai
Basin Bridge Road, Chennai 600 021.
- 2.The Assistant Executive Engineer,
Unit 12, Corporation of Chennai
Basin Bridge Road, Chennai 600 021.
- 3.The Assistant Engineer,
Division No.052, Corporation of Chennai
Cemetery Road, Old Washermenpet
Chennai 600 021.

4.K.Rajan

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 in Notice No.05/04064/2017 dated 07.07.2017 on the file of the respondents 2 and 3 and Letter No.05/34440/2017 dated 19.07.2017 and the consequential order in Letter No.05/03490/2017 dated 02.08.2017 on the file of the respondents 1 to 3, quash the same and direct the respondents 1 to 3 to forbear them from interfering with the peaceful possession and enjoyment of the property bearing door No.80A, Model Lane, 2nd Street, Cemetery Road, Old Washermenpet, Chennai 600 021, belonging to the petitioner.

For Petitioner : Mr.G.Saravanan

For RR 1 to 3 : 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.K.Soundararajan, learned Standing Counsel accepts

notice on behalf of the respondents 1 to 3.

2 The petitioner claims that he belongs to economically weaker section of the society and said to have purchased 80 sq.ft., of land in Cemetery Road, Old Washermenpet, Chennai-21, through an unregistered Sale Deed and also put up a superstructure. The 4th respondent, who is enmical to him, has file a civil suit in OS.No.4201/2014 on the file of the Court of 12th Assistant Judge, City Civil Court, Chennai, for permanent injunction restraining one Mrs.Salomi as well as the petitioner herein from interfering with his peaceful possession and enjoyment of 'A' - Schedule Property and also for mandatory injunction directing the respondents to remove the existing superstructure put up by the defendants on the suit 'B' Schedule property and it was dismissed for default on 19.08.2016 and without disclosing the same, filed WP.No.11869/2017 to consider and dispose of his representation as to the demolition of the alleged unauthorised structure put up by the petitioner herein and the said writ petition was disposed of by this Court on 01.06.2017 with certain directions. The petitioner filed WMP.No.23277/2017 to recall the order dated 01.06.2017, in and by which, the writ petition came to be dismissed for default and the said miscellaneous petition was also dismissed on 13.11.2017.

3 The learned counsel for the petitioner would submit that as per the Development Control Rules, there is no need to obtain planning permission and the petitioner, being a person belonging to weaker section of the society, is in occupation of very small extent of land and taking into consideration of the same, prays for appropriate orders, by directing the officials of the Corporation of Chennai not to proceed further in terms of the impugned Locking, Sealing and Demolition as well as the De-Occupation Notices.

4 Mr.K.Soundararajan, learned Standing counsel appearing for the respondents 1 to 3 would submit that since the petitioner is having an effective alternate remedy u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, the present writ petition is not maintainable and prays for dismissal of the same.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits 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, to the Secretary to Government, Housing and Urban development Department, Secretariat, Chennai 600 009, within a period of four weeks from the date of receipt of a copy of this order, who upon receipt of the same, shall entertain the

revision, if the papers are otherwise in order, without putting the issue of limitation and thereafter, the said official or the delegated authority take up the petition for stay initially and give a disposal within a further period of four weeks thereafter and till such time, the respondents 1 to 3 shall defer further decision in terms of the impugned Locking, Sealing and Demolition Notice as well the De-Occupation Notice. The revisional authority/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. It is made clear that the petitioner, till the disposal of revision to be filed by him, 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, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

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Cemetery Road, Old Washermenpet
Chennai 600 021.

+1cc to Mr.G.Saravanan, Advocate SR.No.30615
+1cc to Mr.K.Soundararajan Advocate SR.no.30140

RK(CO)
sM:15.5.2018

WP.No.10083/2018