

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.4103 of 2018 and W.M.P.Nos.5022 & 5023/2018

M/s.Bharti Airtel Ltd.,
rep.by its Authorized Signatory A.Aruna
No.101, Oceanic Towers,
Santhome High Road,
Santhome, Chennai-600 028. ... Petitioner

Versus

1.The Executive Engineer-Zone 10
Greater Chennai Corporation,
No.64, NSK Bose Road, Kodambakkam,
Chennai-600 024.

2.The Assistant Executive Engineer,
Unit-29, Zone-10,
Greater Chennai Corporation,
30, Amman Koil Street,
Vadapalani, Chennai-600 026.

3.The Assistant Engineer,
Division-129, Unit-29, Zone-10,
Greater Chennai Corporation,
18, Arunachalam Road,
Saligramam, Chennai-600 093.

4.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600003.

5.Mr.R.Ananth ... Respondents

PRAYER:- Writ petitions filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorari calling for the records of the 1st respondent in respect of the impugned order of de-occupation in Notice No.Z.O.C.No/000658/2018 dated 08.02.2018 and quash the same.

For Petitioner :Mr.P.J.Rishikesh
For Respondents :Mr.V.C.Selvasekaran for R1 to R4

ORDER

By consent, the writ petition is taken up for final disposal. Mr.V.C.Selvasekaran, learned counsel accepts notice on behalf of respondents 1 to 4.

2. The deponent of the affidavit is an authorized signatory of the petitioner's Company and according to them, they took a premises bearing new no.66, Old No.69, Arcot Road, Saligramam, Chennai-600 093, by way of lease from the 5th respondent for the purpose of putting up a Showroom and however to their shock and surprise, they were issued with Locking and Sealing and Demolition notice dated 16.08.2017, alleging offended construction. In response to the same, they have submitted their reply dated 16.08.2017 and 23.08.2017, stating that they are the Lessees of the premises in question and in respect of the notice, the 5th respondent/land lord also filed special Revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, (herein after referred as 'the said Act') before the Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-600 009 and the same is pending and therefore requested them to keep further proceedings in abeyance till the disposal of the appeal. Now apprehending that the respondents 2 to 4 are initiating further action to dispossess them from the premises in question and came forward to file this writ petition and it was entertained on 23.02.2018.

3. Mr.P.J.Rishikesh, learned counsel appearing for the petitioner, has invited the attention of this Court to the Proviso to Section 56 (2) of the said Act and would submit that as per the said provision, De-occupation notice has to be served on the petitioner. Admittedly, it is yet to be served and would further add that in the light of the preceptive action taken by the Corporation of Chennai, the petitioner does not want to continue in the occupation of the premises and would vacate the premises.

4. Per contra, learned Standing counsel appearing for the respondents 1 to 4 would submit that De-occupation notice dated 08.02.2018, bearing no.Z.O.C.No/000658/2018, has also been served on the petitioner and as such, the petitioner cannot make any grievance.

5. At this juncture, it is relevant to extract the details of the violation pointed out by the respondents 1 to 3 in their locking, sealing and demolition notice dated 16.08.2018:

S.no	Deviation	As per plan	As per site	Deviation
1	Ground Floor Set Backs North Side South Side East Side West Side Build up Area	3.05 m 4.57 m 1.52 m 1.52 m 52.12 m ²	Nil 4.70 m nil nil 165.24 m ²	3.05 m nil 1.52 m 1.52 m 113.12 m ²
2	First Floor Build up Area	52.12 m ²	179.74 m ²	127.62 m ²
3	Second Floor Build Up Area Unauthorized Constructed Area	Nil	179.74 m ²	179.74 m ²

6. This Court has taking into consideration the above facts and circumstances and without going into the merits of the claims projected by the petitioner, directs the respondents 1 to 3 to keep further action in abeyance in pursuance to the De-occupation notice dated 12.03.2018, until special revision / appeal filed by the 5th respondent before the Government is disposed of.

7. The Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-600 009, is directed to dispose of the appeal filed by the 5th respondent if it has already been entertained, as expeditiously as possible and not later than ten weeks from the date of receipt of copy of this order.

8. With the above direction, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/--
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Executive Engineer-Zone 10
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Rippon Building, Chennai-600003.

+1cc to M/s.P.J.Rishikesh, Advocate Sr.No.27822

PPA(CO)
sm:3.5.2018

WP.No.4103/2018

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