

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:10.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.628 of 2018

and

W.M.P.No776 of 2018

P.P.Manimalah

.. Petitioner

Vs.

- 1.The Greater Chennai Corporation,
Rep. By its Commissioner,
Ripon Buildings,
Chennai - 600 003.
- 2.The Executive Engineer,
Greater Chennai Corporation,
Zonal Office - V,
Chennai - 600 010.
- 3.Chennai Metropolitan Development Authority,
Rep. By its Member Secretary,
Thalamuthu Natarajar Maligai,
1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
- 4.State of Tamil Nadu,
Rep. By Secretary to the Government,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai - 600 009.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned notice in Lr.No.EC/N-1/18558/2017 dated 22.12.2017 issued by the 3rd Respondent and quash the same and forbear the Respondents from in any way taking any action in locking and sealing the Petitioner's premises till the disposal of the Appeal pending before the 4th Respondent.

For Petitioner : Mr.P.Wilson
For Mr.Richardson Wilson

For RR 1 & 2 : Mr.A.Nagarajan

For 3rd Respondent : Mr.C.Johnson

For 4th Respondent : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

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

Heard the Learned Counsel for the Petitioner. Mr.A.Nagarajan, learned Standing Counsel takes notice for Respondents 1 and 2; Mr.C.Johnson, learned Standing Counsel takes notice for the 3rd Respondent and Mr.A.N.Thambidurai, Learned Special Government Pleader takes notice for the 4th Respondent. With the consent on either side, the Writ Petition is taken up for disposal.

2.The Petitioner has filed this Writ Petition praying for passing of an order by this Court in quashing the impugned Letter No.EC/N-1/18558/2017 dated 22.12.2017 issued by the 3rd Respondent/ C.M.D.A. and to restrain the Respondents from in any way taking any action in locking and sealing the Petitioner's premises till the disposal of the Appeal pending before the 4th Respondent.

2.It is not in dispute that the Appeal dated 15.11.2016 preferred by the Petitioner before the 4th Respondent is pending for consideration/adjudication. Till date, the said Appeal is not yet disposed of, at this stage, the Learned Senior Counsel for the Petitioner submits that the authorities have called for remarks from the 3rd Respondent/C.M.D.A.

3.It comes to be known that the 3rd Respondent had wrongly construed the factual position and had inadvertently issued a letter dated 22.12.2017 addressed to the 1st Respondent/Commissioner, Greater Chennai Corporation, Chennai and the Zonal Executive Engineer (Zone-V), Chennai, for making a request to take necessary enforcement action against the construction under reference exercising the powers delegated by C.M.D.A. and also as per the MCMC Act, 1919.

4.It is to be pertinently pointed out by this Court that when the Appeal preferred by the Petitioner dated 15.11.2016 is pending on the file of the 4th Respondent, then, the issuance of

Letter No.EC/N-1/18558/2017 dated 22.12.2017 by the 3rd Respondent addressed to the 1st Respondent and the Zonal Executive Engineer, Chennai, are incorrect and invalid, in the eye of Law.

5.As such, this Court deems it fit and proper in directing the 4th Respondent to dispose of the pending Appeal filed by the Petitioner dated 15.11.2016 within a period of two months from the date of receipt of a copy of this order. Till the disposal of the Appeal preferred by the Petitioner, no coercive action shall be initiated by any one of the Respondents.

6.Before parting with the case, at the time of disposal of the Appeal by the 4th Respondent, it is abundantly made clear that the 4th Respondent shall provide an opportunity of hearing to the Petitioner and others concerned, including the Complainant, if any, after adhering to the Principles of Natural Justice and thereafter, the 4th Respondent is directed to pass a speaking order on merits, ascribing necessary reasons thereto, in a qualitative and quantitative manner, concerning the subject matter in issue/ controversy.

7.With the above observation and direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

Sgl

To

- 1.The Commissioner,
The Greater Chennai Corporation,
Ripon Buildings, Chennai - 600 003.
- 2.The Executive Engineer,
Greater Chennai Corporation,
Zonal Office - V, Chennai - 600 010.
- 3.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Maligai,
1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

4. The Secretary to the Government,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai - 600 009.

5.The Government Advocate,
High Court, Madras.

+1cc to Mr.C.Johnson, Advocate SR.No.2510
+1cc to Mr.Richardson Wilson, Advocate SR.No.2503
+1cc to Government Pleader SR.No.2351

W.P.No.628 of 2018

GN(25/01/2018)



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