

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.9435 of 2018

&

W.M.P.Nos.11279 & 11280 of 2018

1.Conrad Dominic Miranda

2.Mrs.Francis Lovelin Lopez

Petitioners

Versus

1.The Executive Engineer
Zonal Office -VI, Corporation of Chennai
No.5, Anderson Street, Ayanavaram
Chennai - 600 023

2.The Assistant Executive Engineer
U-17, Corporation of Chennai
Zonal Office-VI, Corporation of Chennai
No.5, Anderson Street, Ayanavaram
Chennai - 600 023

3.The Assistant Engineer (AE/DN)
Division-75, Corporation of Chennai
Zonal Office-VI, Corporation of Chennai
No.5, Anderson Street, Ayanavaram
Chennai- 600 023

4.The Secretary to Government
Housing and Urban Development Dept,
Secretariat, Chennai-9

Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the respondents from refrain, giving effect to the de-occupation notice under Form I Section 56 vide Notice No.06/00003/2017 dated 05.12.2017 issued on 03.02.2018 issued by the 1st, 2nd and 3rd respondents pendency of the appeal dated 06.02.2018 filed by the petitioner before the 4th respondent.

For Petitioner : Mr.R.Rajendran

For Respondents : Mr.A.Nagarajan
Additional Govt. Pleader for R1 to R3

Mr.R.Udhayakumar
Additional Govt. Pleader for R4

JUDGMENT

[Judgment of the Court was made by M.SATHYANARYANAN, J.,]

By consent, the writ petition itself is taken up for final disposal.

2. Mr.A.Nagarajan, learned Additional Government Pleader accepts notice for Respondents 1 to 3 and Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice for the fourth respondent.

3.The petitioners claim that they are the joint owners of Flat No.3, Old Door No.93/3, New Door No.41/3, Chellappa Street, Kosapet, Chennai - 600 012 and they had purchased the said flat in the year 2012. Prior to that, they had entered into a construction agreement dated 14.07.2012 for putting up the said flat and in the process, purchased 330 sq.ft through a sale deed bearing Document No.1987 of 2013 dated 16.05.2013.

4.The petitioner further submits that soon after the completion of the construction, they are in possession and enjoyment of the flat and it is also subjected to statutory levies. Further it is averred that to the shock and surprise of the petitioners, lock and seal notice dated 25.10.2017 was issued by respondents 1 to 3 followed by a De-occupation notice dated 05.12.2017. Aggrieved by the same, they filed a special revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 along with a petition for stay under Section 80-A(iii) of Tamil Nadu Town and Country Planning Act, 1971, which was received with an acknowledgement dated 07.02.2018 and despite the same, respondents 1 to 3 are proceeding further to put up a lock and seal and demolition of the superstructure and therefore, they are constrained to approach this Court by filing this writ petition.

5. Heard Mr.R.Rajendran, learned counsel appearing for the petitioner, Mr.A.Nagarajan, learned Additional Government Pleader appearing for Respondents 1 to 3 and Mr.R.Udhayakumar,

learned Additional Government Pleader appearing for the fourth respondent.

6. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to entertain the special revision/appeal filed by the petitioner, if the papers are otherwise in order and thereafter, the fourth respondent/delegated authority shall take up the petition for stay initially and dispose of the same in accordance with law within a period of four weeks from the date of entertaining of appeal/special revision. Till such time, respondents 1 to 3 shall defer further proceedings in terms of lock and seal and de-occupation notice dated 25.10.2017 and 05.12.2017 respectively. The fourth respondent or the delegated authority is also at liberty to take up the Special Revision itself and give a disposal on merits and in accordance with law within a period of four weeks from the date of entertaining of appeal/special revision. The petitioner, till the disposal of the special revision/appeal by the fourth respondent/delegated authority, shall not create any third party rights in the said property and shall not alter or demolish the superstructure.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa

To

1.The Executive Engineer
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No.5, Anderson Street, Ayanavaram
Chennai - 600 023

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U-17, Corporation of Chennai
Zonal Office-VI, Corporation of Chennai
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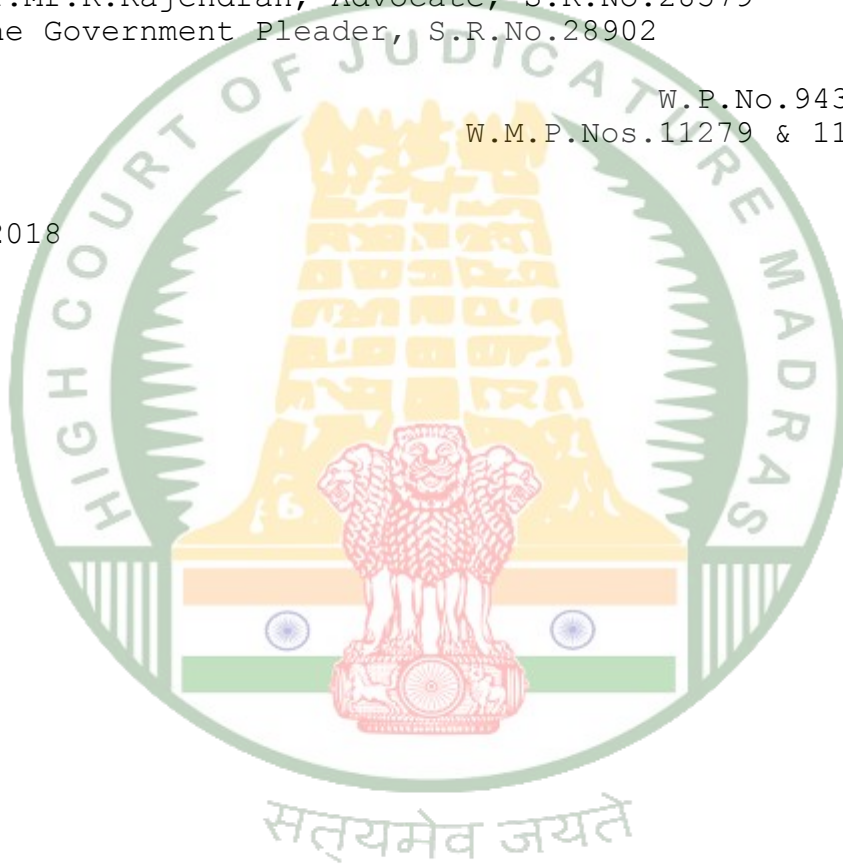
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4.The Secretary to Government
Housing and Urban Development Dept,
Secretariat, Chennai-9

+1cc to Mr.Mr.A.Nagarajan, Advocate, S.R.No.28513
+2cc to Mr.Mr.R.Rajendran, Advocate, S.R.No.28579
+1cc to the Government Pleader, S.R.No.28902

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