

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

W.P.No.8466 of 2018
and WMP.No.10410 of 2018

P.Peer Yaseef

... Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
St.George Fort,Secretariat, Chennai-600 009.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai-600 003.

3.The Executive Engineer,
Corporation of Chennai,
Zone-5, Zonal Office, Chennai.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to forthwith remove the lock and seal (de-seal the premises) in respect of the premises at No.30, Pedariyar Koil Street, Broadway, Chennai-600 001, falls within Zone-5 of Corporation of Chennai and desist from taking any further action pending disposal of the statutory appeal filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 dated 15.11.2017, pending before the 1st respondent.

For Petitioner : Mr.Silambanan, Senior Counsel
for M/s.A.Anandaraj

For Respondents: Mr.R.Udhayakumar,
Additional Government Pleader for R1
Mr.A.Nagarajan,
Standing Counsel for R2 and R3

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims that he is the absolute owner of the property bearing Door No.30, Pedariyar Koil Street, Braodway, Chennai-1 and he derived his title by way of Settlement Deed dated 19.02.2016, vide Doc.No.201/2016, executed by his mother. The petitioner would further aver that the said premises consists of Ground + 2 Floors and in the ground floor, he is running an eatery in the name and style of "Zum Zum Veg Biriyani." The petitioner would further aver that on an earlier occasion, he was issued with Locking and Sealing Notice dated 03.02.2017 by the third respondent and thereafter, the premises was locked and sealed and therefore, he filed W.P.No.13245 of 2017, praying for issuance of a Writ of Mandamus directing the respondents 2 and 3 herein to remove the lock and seal, so as to enable the petitioner to remove the goods, business articles, essential needy commodities and documents which are lying within the sealed premises. The said writ petition was disposed of by this Court, vide order dated 24.05.2017, by permitting the petitioner to remove the movables belonging to him under the supervision of the officials of the respondents and accordingly, the petitioner has removed the articles and thereafter, the premises was resealed. The petitioner, challenging the legality of the notice dated 03.02.2017, has filed a Special Revision under Section 80-A of the TCP Act along with a petition for stay under Section 80-A(3) of the said Act.

3. The learned Senior Counsel appearing for the petitioner would submit that despite pendency of the appeal, the portion of the premises in which the eatery being run is kept under lock and seal and therefore, the petitioner is under the genuine apprehension that the entire premises would be put under lock and seal and in that event, the residents of the dwelling units in the 1st and 2nd floors would be put to grave hardship and prays for appropriate orders.

4. Heard the submissions of Mr.R.Udhayakumar, learned Additional Government Pleader, who takes notice on behalf of the first respondent and Mr.A.Nagarajan, learned Standing Counsel, who takes notice for the respondents 2 and 3.

5. Mr.M.Paul Thangadurai, Executive Engineer, Zone -5, Corporation of Chennai, who is present before this Court would submit that the entire construction is unauthorised and only in terms of the order passed by this Court dated 24.05.2017 in W.P.No.13245 of 2017, the premises has been resealed and action has been taken strictly in accordance with law.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. The fact remains that the petitioner, challenging the legality of the Locking, Sealing and Demolition Notice dated 03.02.2017 issued by the third respondent, has filed a Special Revision under Section 80-A of the TCP Act along with a petition for Stay under Section 80-A(3) of the said Act before the first respondent.

8. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in this writ petition or in the Special Revision, directs the first respondent or his delegated official to entertain the Special Revision Petition filed by the petitioners under Section 80-A of the TCP Act along with the petition for stay under Section 80-A(3) of the TCP Act, if the papers are otherwise in order and shall take up the stay petition initially and give disposal on merits and 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, the respondents 2 and 3 shall not put up lock and seal in respect of first and second floors and however, continue to keep the portion where eatery is being run under lock and seal and shall not proceed with the demolition of the superstructure. The first respondent or his delegated official shall also take up the main appeal itself and give disposal on merits and in accordance with law within a period of ten weeks from the date of entertainment of the appeal and communicate the decision taken, to the petitioner. It is made clear that the petitioner, till the disposal of the special revision by the first respondent or his delegated official, shall not create any third party rights in respect of the superstructure in question and shall not alter it's physical features also.

9. It is also represented that water and sewerage connection has been disconnected to the entire premises in question and if it is so, The Executive Engineer, Zone-5, CMWSSB, is directed to restore the water supply and sewerage connection to the premises in question, subject to fulfilment of norms, within a period of two days from the date of receipt of a copy of this order.

10. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

jvm

To

1.The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
St.George Fort,
Secretariat, Chennai-600 009.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai-600 003.

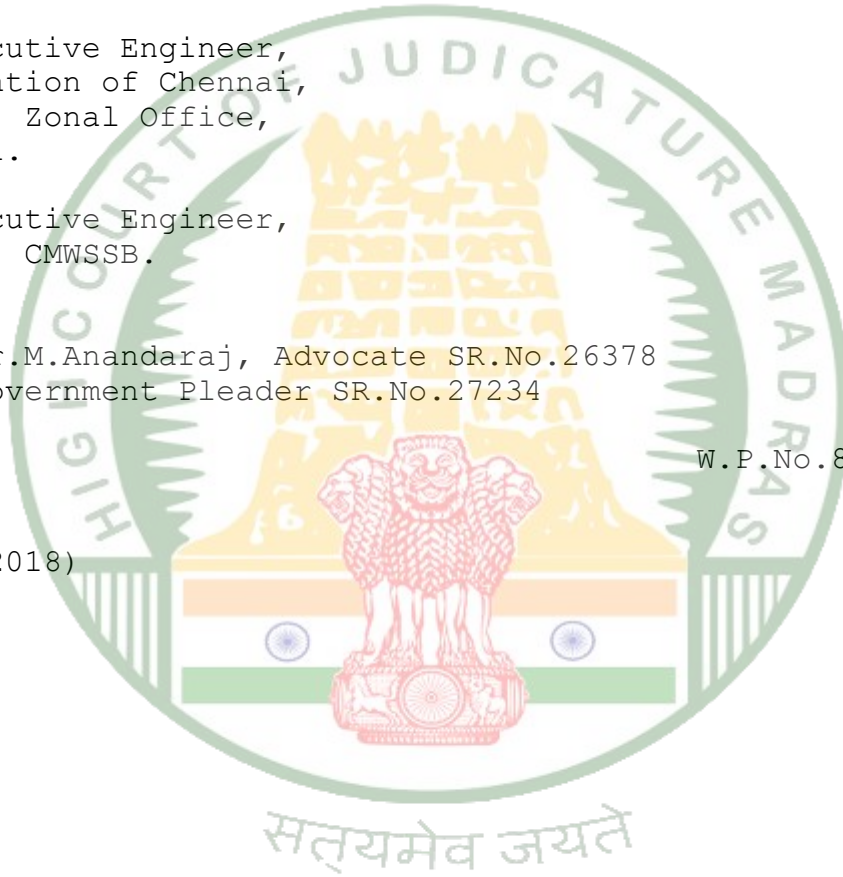
3.The Executive Engineer,
Corporation of Chennai,
Zone-5, Zonal Office,
Chennai.

4.The Executive Engineer,
Zone-5, CMWSSB.
Madras.

+1cc to Mr.M.Anandaraj, Advocate SR.No.26378
+1cc to Government Pleader SR.No.27234

W.P.No.8466 of 2018

NRI (CO)
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