

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.88012018 & WMP.No.10672/2018

Deepak Mehra

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Petitioner

Versus

1.The Secretary to Government
Housing and Urban Development
Department, Fort St George
Chennai 600 009.

2.The Member Secretary
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Building, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.

3.The Commissioner
Corporation of Greater Chennai
Rippon Buildings, Chennai.

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Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus seeking direction to dispose of the stay petition filed under section 80-A[3] of the Town and Country Planning Act, 1971, filed along with the special revision petition dated 05.03.2018 within a time frame to be fixed by this Court.

For Petitioner : Mr.Govind Chandrasekhar
For R1 : Mrs.M.Lalitha, GA
For R2 : Mr.K.Raja Srinivas
For R3 : 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. Mrs.M.Lalitha, learned Government Advocate accepts notice on behalf of the 1st respondent ; Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of the 2nd respondent and Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the 3rd respondent.

2 The petitioner claims that he is the co-owner of the Building at Door No.13, Balfour Road, Kellys, Kilpauk, Chennai-10 along with one Soham Mehra, Mrs.Sangeetha Mehra and Mrs.Deepa. The petitioner would further aver that the 2nd respondent has accorded planning permission bearing No.8988 dated 31.03.2015 to put up the Basement Floor + Stilt Floor + 3 Floors office buildings and the building has been constructed strictly in accordance with the planning permission and the Completion Certificate was also issued on 26.05.2017. The petitioner, to his shock and surprise, has received a notice dated 27.02.2018, stating that an inspection was carried out on 23.02.2018 and there was a set back violation and the premises is also being used for some other commercial purposes, i.e., for running a Restaurant. The petitioner, challenging the legality of the said notice, filed an appeal/special revision u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, along with a petition for stay.

3 It is the submission of the learned counsel for the petitioner that the electricity, water supply and sewage connection are likely to be disconnected despite entertainment of the appeal/special revision and therefore, prays for appropriate orders.

4 Mr.K.Raja Srinivas, learned standing counsel for the 2nd respondent would submit that since the premises has been unauthorisedly used for some other purposes, action is being taken strictly in accordance with law.

5 The Court heard the submissions of Mrs.M.Lalitha, learned Government Advocate appearing for the 1st respondent and Mr.K.Soundararajan, learned standing counsel appearing for the 3rd respondent and perused the materials placed before it.

6 This Court, taking into consideration, the limited scope of prayer and without going into the merits of the claim projected by the petitioner, either in his appeal/special revision or in this writ petition, directs the 1st respondent to

entertain the appeal/special revision dated 05.03.2018, if the papers are otherwise in order, on file and the 1st respondent or the delegated official shall take up the petition for stay initially and give a disposal in accordance with law within a period of four weeks from the date of entertainment of the appeal/special revision and till such time, the jurisdictional officials of the respondents 2 and 3, shall defer further decision as to the locking and sealing and disconnection of the electricity, water supply and sewage connection. The 1st respondent or the delegated official is also at option to take up the main appeal/special 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 appeal/special revision and communicate the decision taken, to the petitioner. It is made clear that the petitioner, till the disposal of the appeal/special revision by the 1st respondent or the delegated official, 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 petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government
Housing and Urban Development
Department, Fort St George
Chennai 600 009.

+1 cc to the Govt pleader sr 28072
+1 cc to Mr.K.Soundararajan Advocate sr 27786
+1 cc to Mr.Govind Chandrasekhar Advocate sr 27328
+1 cc to Mr.K.Rajashrinivas Advocate sr 27074

WP.No.8801/2018

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