

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.34267 of 2017

S.Ramasamy .. Petitioner

Versus

1.The Regional Deputy Director,
Directorate of Town and Country Planning,
Chengalpet Region,
124, G.S.T.Road,
Chengalpet,
Kancheepuram-603 001

2.The Commissioner,
Pallavaram Municipality,
Pallavaram.

3.Jayanthi .. Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to consider his representation dated 14.10.2017 and to take necessary action regarding the building constructed by the 3rd respondent in violation of all Rules and Regulations at No.45, Perumalkoil street, Old Pallavaram, Chennai.

For Petitioner :Mr.P.Sesubalan Raja

For Respondents : Mr.A.N.Thambidurai, for R1
Mr.P.Srinivas, for R2
Mr.C.KasiRajan for R3

ORDER

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

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

2. The petitioner claims to be a permanent resident bearing Door no.43, Perumal Koil Street, Old Pallavaram, Chennai-600 117 and according to her, the 3rd respondent, who is adjacent land

owner of the superstructure, has demolished the land and she has put up two storeyed building and in that process, has violated set back requirements and also made site wise as well as aerial wise projection and the representation submitted in this regard has failed to invoke any kind of response and therefore, came forward to file this writ petition.

3. The writ petition was entertained and notices were ordered on 03.01.2018. The 2nd respondent has filed a Status Report on 18.02.2018 and 20.03.2018 stating among other things that notice was issued to her under Section 216 (1) & (2) of the District Municipalities Act for which the 3rd respondent has responded by stating that he has only renovated the old structure. It is further averred by the 2nd respondent that for putting up construction, he has obtained no Objection Certificate from the Archaeological Survey Department for the reason that it has been declared as Archaeological Monument area. It is also further averred that the extent of building is located in a residential zone and also under the Continuous Building Zone and as such, no set-back is required and the petitioner has also left some spaces for front and rear set-backs.

4. The 3rd respondent has filed a counter affidavit denying the averments and took a stand that she has only renovating the building and not put up any additional construction or new construction and as such permission from the 2nd respondent is not at all required.

5. The learned counsel appearing for the petitioner has drawn the attention of this Court to the photographs and would submit that the third respondent has entirely changed the appearance of the building by making aerial wise as well as side wise projections. It is obligatory on the part of the 2nd respondent to take appropriate action on the unauthorised construction.

6. Per contra, Mr.P.Srinivas, learned counsel appearing for the 2nd respondent would submit that the area falls under the Continuous House Zone and only requirement is to leave front set-back and the petitioner has already left it and since modification done by the 3rd respondent is not exceeding 50%, it cannot be construed as a fresh or additional construction.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. In the light of the categorical stand taken by the 2nd respondent in their status report and also in the light of the stand taken by the third respondent in her counter affidavit, this Court is of the considered view that the alleged

modification done by the 3rd respondent to the existing building cannot be construed as unauthorized one. However, the 2nd respondent shall cause surprise inspection to find out whether the 3rd respondent has attempted to put up any additional construction under the guise of modification/renovation and if so after putting her on notice shall take appropriate action in accordance with law.

9. With the above direction, the writ petition stands disposed of.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Regional Deputy Director,
Directorate of Town and Country Planning,
Chengalpet Region,
124, G.S.T. Road,
Chengalpet,
Kancheepuram-603 001

2. The Commissioner,
Pallavaram Municipality,
Pallavaram.

+1cc to Mr. Mr. C. Kasi Rajan , Advocate, S.R.No.28293
+1cc to Mr. Mr. P. Sesubalan Raja, Advocate, S.R.No.28690
+1cc to the Government Pleader, S.R.No.28877
+1cc to Mr. P. Srinivas, Advocate sr.no.29068

W.P.No.34267 of 2017

mr(co)
nr 11/05/2018

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